

## MINUTES

### MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON NATURAL RESOURCES

**Call to Order:** By **CHAIRPERSON BOB RANEY**, on March 19, 1991, at 3:20 p.m.

#### ROLL CALL

**Members Present:**

Bob Raney, Chairman (D)  
Mark O'Keefe, Vice-Chairman (D)  
Beverly Barnhart (D)  
Vivian Brooke (D)  
Ben Cohen (D)  
Ed Dolezal (D)  
Orval Ellison (R)  
Russell Fagg (R)  
Mike Foster (R)  
Bob Gilbert (R)  
David Hoffman (R)  
Dick Knox (R)  
Bruce Measure (D)  
Tom Nelson (R)  
Bob Ream (D)  
Jim Southworth (D)  
Howard Toole (D)  
Dave Wanzenried (D)

**Staff Present:** Gail Kuntz, Environmental Quality Council  
Paul Sihler, Environmental Quality Council  
Lisa Fairman, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

#### HEARING ON SB 209

**Presentation and Opening Statement by Sponsor:**

**SEN. BILL YELLOWTAIL, SD 50 - Wyola**, presented SB 209, one of a package of bills arising from interim work of the Environmental Quality Council (EQC) relating to solid waste management. He said Montana needs to retain state primacy, and have the ability to provide technical assistance to local governments who have the regulatory burden. As a result of Subtitle "D" regulations, there will be substantial new movement in Montana toward consolidation and closure of local solid waste management dumps. Local governments need help to respond. Primacy offers the state the

HOUSE NATURAL RESOURCES COMMITTEE

March 19, 1991

Page 2 of 17

opportunity to mold issues, such as siting, licensure and infectious waste management, to suit its needs.

There is increased interest in importing out-of-state wastes. A system is needed to manage this development and SB 209 addresses that issue. It provides a source of funding for the solid waste management function of the Department of Health and Environmental Sciences (DHES). Currently there are approximately three FTEs in the Department. A substantial boost in staff is needed to adopt a federally approved Subtitle "D" program.

In addressing funding needs, the EQC Advisory Committee on Solid Waste Management felt any new source of revenue should come from those receiving services. EQC determined a new funding system should reflect the volume of solid waste, state costs to review applications and complete annual licensing programs, provide incentive for waste reduction, and give incentive for consolidating small systems.

The general policy in the bill is in Section 2, Page 5. Line 17 says costs for the management and regulation of solid waste management systems should be charged to the people generating solid waste to encourage a reduction. The bill sets fee and licensure levels. The bill is the Senate committee's amended version. The House committee may want to make corrections. The bill sets out initial application fees and annual renewal fees, but a per-ton license fee to encourage generators of garbage to reduce the flow may be more appropriate.

Proponents' Testimony:

**Tony Grover, DHES Solid Waste Program**, supported SB 209. EXHIBIT 1 He submitted an excerpt from the fiscal year (FY) 1992 draft RCRA Implementation Plan, by the Environmental Protection Agency (EPA). EXHIBIT 2

**Gordon Morris, Montana Association of Counties (MACO)**, supported the bill, but only if amendments were included. EXHIBIT 3

**Pete Frazier, Director of Environmental Health for the Cascade City-County Health Department, Director of the Cascade County Solid Waste Disposal District**, supported SB 209 with some reservations. EXHIBIT 4

**Tom Hammerbacker, Conrad Mayor and a member of the Board of Directors for the Northern Montana Joint Refuse District**, supported SB 209 with amendments proposed by Mr. Morris.

**Chris Kaufmann, Montana Environmental Information Center (MEIC)**, said SB 209 is the most important solid waste bill this session. The bill gives Montana primacy for solid waste management. Without the bill, EPA would become the regulator of landfills in Montana. The state program can respond better to state needs.

The state, EQC and legislators recognize the need to move forward in solid waste management, emphasizing recycling, reduction and reuse. Funds must be provided to do this. The bill places a fee on landfills with a good balance between large and small cities. She supports amendments presented by Mr. Morris to charge based on the volume of waste, and urged the committee to pass the bill as amended.

**Bruce McCandless, Billings' Assistant City Administrator,** supported the bill without House amendments. He said the objective of SB 209 is to set the primary funding mechanism for the solid waste program. Secondly, it will reduce solid waste. There is a better mechanism to reduce solid waste than a per-ton fee. As solid waste declines, the fee will increase because state employees will not be laid off. There will legal challenges if it is a tax because the state's ability to tax local governments has not been established.

The state should collect its own taxes, not make local government tax collectors. The fee should be reasonable and equal to the services provided. He won't support HB 209 with the fee schedule. The Senate's version of the bill provides necessary fees to operate the program. Fees will cost Billings approximately \$50,000 a year based on the Senate-passed version. He urged the committee to pass SB 209 as amended by the Senate.

**Kay Blehm, Northern Plains Resource Council and Yellowstone Valley Citizens Council,** supported SB 209 in the amended form outlined by MACO. A 31 cents per ton fee seems equitable. Incentive to reduce waste would help the state reach the 25 percent reduction set on the federal level. A strong state program will ensure environmental safeguards are in place so landfills are less likely to become Superfund sites, as has occurred in Billings.

**Frank Crowley, Montana Solid Waste Contractors Association,** said he represents private haulers and landfill operators across Montana. He supported SB 209 and endorsed SEN. YELLOWTAIL's comments and the original funding formula. Board members voted unanimously to endorse SB 209. He submitted letters reflecting their support. **EXHIBIT 5**

**Janet Ellis, Montana Audubon Legislative Fund,** supported the original funding formula and opposed the Senate-amended version of the bill.

**REP. DON LARSON, HD 65 - Seeley Lake,** supported SB 209 with amendments proposed by Mr. Morris. He said proposed fees comprise 13 percent of the budget of the small landfill on the north end of Missoula County. He urged the committee to resist present fees.

**Opponents' Testimony:**

Richard A. Nisbet, Helena's Director of Public Works, opposed SB 209. EXHIBIT 6

Questions From Committee Members:

REP. KNOX asked SEN. YELLOWTAIL the reason for Page 4, Section 1, Subsection 3. SEN. YELLOWTAIL said existing law refers to costs established by local government. It provides for county commission approval, subject to a public hearing when fee increases are proposed. SB 209 would impose a state user fee that would be passed on through so that it would not constitute a fee increase by local government.

Closing by Sponsor:

SEN. YELLOWTAIL said he understands Billings' concern. The city will benefit if the bill is amended as proposed by Mr. Morris. The per-ton fee will encourage people to decrease the amount of waste they generate. It is a use fee. General Fund money could be used, but that is from taxes. This is a logical way to maintain state primacy.

HEARING ON SB 346

Presentation and Opening Statement by Sponsor:

SEN. JOHN HARP, SD 4 - Kalispell, said SB 346 would establish a solid waste management fee for waste generated outside the state. Montana may face decisions in the near future because of costs in other areas. EQC interim studies say Montanans should not have to subsidize the regulation of solid waste that originates in other states. A quarterly fee of \$5 per ton is proposed.

There is a question about how interstate commerce law affects the imposition of a fee to move a product from one state to another. The effective date would be July 1, 1993, because West Yellowstone is already importing solid waste from out-of-state. The effective date would provide advance notice of any changes. SB 346 would generate approximately \$100,000 based on existing levels of imported wastes.

Proponents' Testimony:

Neva Hassanein, Northern Plains Resource Council, strongly supported SB 346. She said DHES would not be able to deal with a large project as currently funded. The bill allows adequate funding.

Ms. Kaufmann, MEIC, said one reason out-of-state firms look to Montana to dispose of waste is that Montana's fees are extremely low. There are costs associated with accepting large amounts of waste from out of state. This fee is appropriate. It is important for SB 346 to pass.

Linda Lee, Montana Audubon Legislative Fund, supported SB 346. She said that if the state begins to import waste on a large scale, it needs to be ready with a management plan.

Opponents' Testimony: none

Questions From Committee Members: none

HEARING ON SB 99

Presentation and Opening Statement by Sponsor:

**SEN. HARP, SD 4 - Kalispell**, said SB 99 was severely amended in the Senate. Originally it was an act to provide preference for the private operation of solid waste management. The bill as it appears now asks DHES to develop a procedure for public input to local governments on whether solid waste management systems should be private or public.

Proponents' Testimony:

**Mr. Morris, MACO**, said the association was opposed to the bill as introduced in the Senate but supports the amended version that came out of the Senate Local Government Committee. He recommended the committee resists amending back in language of the original bill.

**Jim Jensen, MEIC**, supported the bill as introduced. He said the committee should either return the bill to the form in which it was introduced or it should be tabled. The Senate-amended bill does nothing. On Page 3, the preference rules for private solid waste management systems was stricken and a new section E was added. The problem the bill attempted to address was the poor operation of landfills by some local governments and municipalities, and the potential for privately operated landfills. He urged the committee to return the bill to its original form or reject it.

**Bob Valiano, Bozeman solid waste operator**, distributed proposed amendments, which he said basically returns SB 99 to its original form. **EXHIBIT 7**

**Mr. Crowley, Montana Solid Waste Contractors Association**, supported the bill. He said SB 99 tries to establish the needed private and public partnership in solid waste management. The objectives are commendable, even as watered down as the bill is. In the Helena valley, the city and county had no process or incentive to solicit alternatives. The association endorses SB 99. It is better than what is in place now. DHES is qualified to make proposals to the State Board of Health. Because of the amendments, the fiscal note is obsolete. **EXHIBIT 8**

Opponents' Testimony:

**Mr. Nisbet, Helena's Director of Public Works, opposed SB 99.**  
**EXHIBIT 9**

**Alec Hansen, Montana League of Cities and Towns**, said he is adamantly opposed to the bill as introduced in the Senate because it gives absolute preference to private solid waste systems over public. Mayors, council members and county commissioners are responsible for providing the highest level of public service at the lowest possible cost. If management authority and discretion is transferred to the DHES, and DHES is allowed to write rules telling elected officials how to administer solid waste in the state, an unregulated monopoly would have absolute preference. A certificate from the Public Service Commission prevents competitive bids or other providers in the area. This legislation will take a critical management tool from local governments.

**Mr. Frazier, Cascade City-County Health Department, opposed SB 99 for reasons stated by Mr. Hansen.**

**Mr. McCandless, Billings' Assistant City Administrator**, described the SB 99 as unnecessary and offensive. He said it is unnecessary because state statute requires local governments to consider privatization of solid waste collection and disposal services. It is offensive because it left the responsibility of the management of solid waste with local governments, while stripping them of the authority to decide who will manage solid waste. The authority is placed with DHES.

**Questions From Committee Members:**

REP. COHEN asked Mr. Crowley about Mr. Hansen's statement that private waste disposal service was unregulated. Mr. Crowley said it was a gross exaggeration. Local government will retain the primary responsibility to ensure solid waste is managed properly. Private industry contracts with local government include conditions and provisions allowing strong local government control. The contract is canceled if the private company does not satisfy local government. DHES rules apply to public and private operators.

REP. COHEN asked Mr. Frazier if Great Falls has a Class D permit. Mr. Frazier said he did not believe so. REP. COHEN asked if the city had a permit for its water and sewer system. Mr. Frazier said he did not know. REP. COHEN said it appears the only unregulated monopolies in solid waste are run by municipalities. Mr. Frazier said that was not true. Landfill operators are licensed, regardless of whether they are city, county or private entities.

REP. COHEN asked Mr. Morris if any cities or counties have a Class D permit for the collection and transportation of solid waste. Mr. Morris said he did not know of any.

REP. RANEY asked Mr. Morris why he opposed the language "local

March 19, 1991

Page 7 of 17

governments ... shall provide a preference to private industry if costs and services are substantially equal to alternate publicly operated services," if costs are the same and the private service is a taxpayer. Mr. Morris said the solid waste task force that developed this packet of bills believes language in the bill in its original form gave absolute preference to private industry. He opposes absolute preference.

REP. RANEY asked Mr. Morris how he would feel if the language were changed to delete absolute preference and allow it to go to private enterprise if costs were substantially equal. Mr. Morris said he was not in a position to negotiate on behalf of the Solid Waste Task Force. The preference would be to either leave the bill in the form it came from the Senate or table it.

REP. RANEY asked Mr. Hansen if he would object to the bill if absolute preference were removed, and substantially equal cost were added. Mr. Hansen said one of the big objections to the Senate bill as it was introduced was the stricken language at the top of Page 3, which allows DHES to write rules to tell cities, towns and counties how to operate landfills. Existing law includes some preference language, and private industry is to be used whenever feasible. There is no objection to that as long as the local elected governing body of the city or county can sit down, make an informed judgment after a public hearing.

REP. RANEY asked Mr. Crowley why there isn't preference now if services and costs are equal. Mr. Crowley said that in 1977 the Legislature inserted the provision that private industry was to be used to the maximum extent practical in the operation of solid waste systems. That was never implemented, and local government has no incentive to do it. EQC had said these alternatives should be put in the public eye. Preference needs some teeth.

REP. RANEY asked Mr. Morris how he would feel if the Class D carriers, the private enterprises, had rates regulated by the Public Service Commission. Mr. Morris said an overriding concern was whether a private provider had a five or 10 year contract. Long-term liability considerations could not be avoided. Local governments would always have that responsibility.

Closing by Sponsor:

SEN. HARP said he advocates amending the bill back to its original form.

HEARING ON SB 189

Presentation and Opening Statement by Sponsor:

REP. GILBERT presented SB 189 on behalf of SEN. TOM BECK, SD 24 - Deer Lodge. He said the bill allows local governments to contract with private contractors for periods up to 10 years, as opposed to the current five years; it makes solid waste terminology in

March 19, 1991

Page 8 of 17

local government laws consistent with public health laws passed in the last session; it makes it possible for local governments to sell bonds to finance solid waste district facilities; and it will make it easier to organize multi-county districts.

He reviewed the bill, noting that Sections 17 through 19 are the heart of the bill. They establish joint districts encompassing more than one county. Current law provides a process for creating multi-county districts but does not recognize the character of a district within a county. Each district is a creature of its county. A different kind of entity must be created to have a multi-county district. A joint district must be a separate political subdivision.

**Proponents' Testimony:**

**Walter Connell, the attorney representing Three Rivers Disposal in Bozeman, supported SB 189 with his proposed amendments.**

**EXHIBIT 10**

**Selden S. Frisbee, the attorney representing Northern Montana Joint Refuse Disposal District in Cut Bank, said there are many conflicting or unclear statutes dealing with joint districts. It was almost impossible to get the Joint Refuse Disposal District organized. Notice provisions conflict. Questions arose concerning the invalidation of the proceedings because areas in the district were changed after notices were sent out. The powers of the board of directors were unclear.**

EQC worked on some of these issues and the result is a fine-tuned piece of legislation that has been studied, thought out, argued, written and rewritten. If a part is changed now, it will emasculate the bill. Notices must be sent out by registered mail to every person who will be in the district. There also is a publication provision. The inadequacy of a 15-day notice has been commented on. The original bill provided a 30-day notice, but there was a conflict between a general publication statute that said publication must be on two weeks, and response must be within 15 days after the last publication. The 15-day notice would resolve the conflict.

The statutes allow the private sector to contract. If a private contractor can't meet the cost of the operation by the joint refuse disposal district, the taxpayer is not required to bear the expense. The best way to mess up the bill is to start amending it without understanding the mischief that the amendments will do.

He proposed Section 34, Page 20 read, "joint refuse disposal districts organized under 713-241 prior to the effective date of this pact which comply with the procedural requirements of this act are hereby validated."

**Mr. Hammerbacker, Conrad Mayor, supported SB 189.**

HOUSE NATURAL RESOURCES COMMITTEE

March 19, 1991

Page 9 of 17

**Mr. Morris, MACO**, supported SB 189 as introduced. He said the amendments attempt to establish absolute private preference. He urged the committee to accept the bill as it is, and perhaps consider **Mr. Frisbee's** amendment. The fiscal note accompanying the bill indicates that no multi-county district sponsored landfills would be permitted in the 1993 biennium. That is probably an error. If it is in the bill, it is a mistake.

**Ms. Kaufmann, MEIC**, said the bill has good environmental provisions. It encourages consolidation of landfill districts or formation of joint districts. Environmentally sound landfills cost a lot of money. There are changes in how districts charge fees. The amendment requiring a fund for closure and for environmental regulation is good. She urged the committee to pass the bill.

**Mr. Nisbet, Helena's Director of Public Works**, supported SB 189 as it appears, but opposed proposed amendments.

**Mr. Hansen, Montana League of Cities and Towns**, supported SB 189 in its present form. He opposed amendments, noting that they attempt to establish absolute preference.

**Mr. Crowley, Montana Solid Waste Contractors Association**, supported SB 189. He said a balanced partnership is needed. Nationally, 50 percent of all landfills are privately owned. In Montana, 15 percent are private. If SB 189 passes and SB 99 does not, there will be a shift in the balance between public and private.

SB 189, in addition to authorizing multi-county districts, grants new powers to local governments in assessments, fees, taxes and low-interest sources of public finance. Private industry does not have access to low-interest public finance. The committee needs to be aware of the sweeping nature of this bill. Local government needs power to deal with the next century. If this is not a companion bill to SB 99, there will be a major shift away from the private sector.

**Opponents' Testimony:** none

**Questions From Committee Members:**

**REP. COHEN** asked if it was the intention of EQC that SB 99 and SB 189 be a package. **REP. GILBERT** said there cannot be two subjects under one title, so each subject is addressed in an individual bill. It is a package only to the extent that every step needs to be filled in for handling solid waste in Montana.

**REP. COHEN** noted that Section 25 indicates there can be a deficiency and operation can continue. **REP. GILBERT** said a deficiency in a district is like a deficiency in government or a deficiency in private business. If costs exceed income, there is a deficiency. That doesn't necessarily mean you are out of

March 19, 1991

Page 10 of 17

business. It means you may have to raise rates or refinance.

REP. COHEN asked if counties, as a result of tax deficiencies, could levy taxes not to exceed two mills. REP. GILBERT said yes, that would be one method. REP. COHEN asked if that would mean a tax on everyone living within the district or only on people being served by the joint district. Mr. Huntington said it would be everyone who owns property in the district.

REP. WANZENRIED asked if there would be a vote in single or multi-county districts. Mr. Huntington said there can be a vote in a multi-county district if people want to back the bonds with more than two mills.

REP. COHEN asked if it would be correct to say a multi-county unregulated monopoly would be created, given that property owners who do not utilize the service have to pay for it. Mr. Huntington said no.

REP. WANZENRIED asked how the debt is divided between the two jurisdictions if there were a deficiency in multi-county districts. Mr. Huntington said all counties participate in the creation of the district and, as part of the initial resolution, agree whether to provide a two mill limited tax pledge or not. If there is a two mill limited tax pledge, the counties would decide how to divide it.

REP. COHEN asked what kind of annual budget there would be. Mr. Huntington said there would be a full range of budgets. REP. COHEN asked how often boards meet and if there were any requirement for board members to have expertise or experience in pertinent areas. Mr. Huntington said the whole board meets at least once per year. The executive committee meets more often. Current law requires the board to include sanitarians from the county, a representative of county government and a representative from each municipality within the district.

**Closing by Sponsor:**

REP. GILBERT said the bill tries to address needs created by subtitle regulation and resulting landfill closures. Privatization may be needed and the amendments try to allow that. He does not oppose privatization, but a partnership between the two is needed.

**HEARING ON SB 400**

**Presentation and Opening Statement by Sponsor:**

SEN. FRED VAN VALKENBURG, SD 30 - Missoula, said SB 400 was introduced at the request of a major landowner in western Montana to deal with the issue of illegal and improper disposal of solid waste on private land. Entities like Champion International and other large landowners find people dumping waste into gullies,

March 19, 1991

Page 11 of 17

ravines and out-of-the-way areas. Law enforcement is able to use serial numbers, mail or other items left at the site to determine the source of the solid waste, but is often unable to prove that the owner of the refuse dumped it at that site. SB 400 would make improper dumping and disposal of solid waste a liability offense, which would remove the need to prove a criminal offense. It would subject the responsible party to civil fines as opposed to criminal penalties. This would be a significant deterrent.

Proponents' Testimony:

**Tucker Hill, Champion International Corp. in Missoula,** supported the bill. He said Champion owns about 900,000 acres in western Montana. The majority of land is open for recreational use. SB 400 provides some protection. He showed photographs of waste illegally dumped on Champion land.

**Ms. Kaufmann, MEIC,** supported the bill. She said it is important to encourage people to do the right thing and not dispose of garbage illegally.

Opponents' Testimony: none

Questions From Committee Members:

**REP. HOFFMAN** said he was confused on the crossover from criminal to civil under the absolute liability statute. He asked if the action of dumping illegally creates the absolute liability. **SEN. VAN VALKENBURG** said yes.

**REP. GILBERT** said he supported the concept of the bill but is concerned that duplication of penalties might occur because a bill sponsored by **REP. STELLA JEAN HANSEN, HD 57 - Missoula,** has already been passed by the committee. **SEN. VAN VALKENBURG** said he knows of nothing that would legally prohibit someone from being subjected to both a criminal and civil penalty if a court decided that was an appropriate sanction. He indicated he was not familiar with **REP. HANSEN's** bill.

**REP. COHEN** told **SEN. VAN VALKENBURG** that he was concerned about whether public lands were covered in the language. **SEN. VAN VALKENBURG** said that under Subsection 2b, if garbage is dumped in or upon any public recreational property under the control of the state of Montana or any political subdivision thereof, it is a violation of the law. U.S. Forest Service or Bureau of Land Management land may not be covered, unless it is covered under recreational property.

**REP. COHEN** said the phrase "public recreational property" bothers him. If it is land in a timber sale, it is not recreational. He asked if other state lands, such as agriculture lease lands, are covered in the bill. **SEN. VAN VALKENBURG** said he did not find something immediately that covers that land. If an amendment were drafted to cover those lands he would not object.

HOUSE NATURAL RESOURCES COMMITTEE

March 19, 1991

Page 12 of 17

REP. TOOLED asked if the intent of the bill is to have a criminal and a civil penalty for dumping. SEN. VAN VALKENBURG said that if a person's mental state can be proven, the addition of a jail term ought to be available.

REP. TOOLED said he can't find that intent in the bill. He asked if it would be agreeable to amend it in if the intent is not clearly stated. SEN. VAN VALKENBURG said yes.

REP. TOOLED said he was bothered by a civil penalty of \$1,000 per day for a person who might unwittingly be charged with a multiple-day offense. SEN. VAN VALKENBURG said the penalty is not to exceed \$1,000 per day. It is important to put this in context with everything else about solid waste. There may be violations that would justify that type of penalty.

Closing by Sponsor:

SEN. VAN VALKENBURG closed.

HEARING ON SB 268

Presentation and Opening Statement by Sponsor:

SEN. PAUL SVRCEK, SD 26 - Thompson Falls, said SB 268 provides for a 15 percent preference for state purchase of recycled materials. The 15 percent figure was determined through work with the Department of Administration. The bill originally required all public agencies to provide a preference. In the Senate committee hearing, MACO, the League of Cities and Towns, and a representative from Billings thought preference for purchasing recycled material was a good idea, but it would be onerous for the state to impose it on local governments without any monetary assistance.

The bill now applies to state agencies only. Another significant change in the bill is on Page 3. It is no longer a mandatory preference; it is discretionary. This was agreed to because of financial considerations. The purchase of recycled materials is important, and the process needs to be started. The bill is permissive, but it is a start. Some technical amendments need to be put in.

Proponents' Testimony:

Rick Meis, Treecycle Paper in Bozeman, supported SB 268.  
EXHIBITS 11-12

Ms. Kaufmann, MEIC, said a rulemaking procedure addresses some of the definitions and concerns Mr. Meis presented. SB 268 works together with HB 160, which establishes a task force. SB 268 does not mandate use of recycled products; it provides a preference. She urged support of the bill.

March 19, 1991

Page 13 of 17

**Kristin Page, MontPIRG**, supported the bill as part of the effort to encourage integrated waste management to reduce, recycle and reuse solid waste. SB 268 provides positive guidelines to encourage use of recycled materials.

**Ms. Lee, Montana Audubon Legislative Fund**, strongly supported SB 268. She said it is a comprehensive program for the state. An organized plan that will reduce use through conservation, tap into the recycled products market, and increase recycling practices by agencies and individuals.

**Opponents' Testimony:** none

**Questions From Committee Members:** none

**Closing by Sponsor:**

**SEN. SVRCEK** said he will get amendments to the committee. He emphasized that the plan is not mandatory, but it is a start.

**EXECUTIVE ACTION ON SB 400**

**Motion:** REP. COHEN MOVED SB 400 BE CONCURRED IN.

**Motion:** REP. COHEN moved to amend SB 400 to strike the word "recreational" on Page 1, Line 19, and on Page 2, Line 24.

**Discussion:** REP. BROOKE asked if the amendment on Page 2 stated that game wardens have the right to enforce the provisions on public and private property. REP. COHEN said yes.

**Vote:** Motion to adopt REP. COHEN's amendment carried unanimously.

**Discussion:** REP. TOOLE said he does not like the language "each day of violation constitutes a separate offense." A maximum of \$1,000 would be sufficient.

**Motion:** REP. TOOLE MOVED TO STRIKE THE SECOND SENTENCE OF SUB 2, LINE 17 AND 18, PAGE 2.

**Discussion:** REP. O'KEEFE said that if the language is removed, he would like to see the "not to exceed" amount raised. Solid waste that is dumped could be so despicable that the fine should be more than \$1,000. REP. TOOLE said that repeated dumping is a separate offense that could get a separate penalty.

REP. RANEY suggested that each offense be fined \$1,000. REP. TOOLE said that would get away from what SEN. VAN VALKENBURG was trying to do, which is to make a person responsible if their debris is found dumped.

**Motion/Vote:** REP. O'KEEFE MADE A SUBSTITUTE MOTION TO STRIKE \$1,000 ON LINE 17, PAGE 2, AND INSERT \$5,000, AND AFTER THE PERIOD ON THAT LINE, TO STRIKE ALL THE LANGUAGE TO THE END OF

LINE 18. Motion carried unanimously.

Motion: REP. BROOKE MOVED SB 400 BE CONCURRED IN AS AMENDED.

Discussion: REP. TOOLE expressed concern about the way Sub 3, Line 4, Page 2, refers to only civil penalty. He said it should either be left alone or the words "and criminal penalties" on Line 7 after the word "civil" should be omitted.

Vote: Motion that SB 400 be concurred in as amended carried unanimously. Reps. Ream and Wanzenried were absent for voting.

REP. SOUTHWORTH volunteered to carry the bill.

#### EXECUTIVE ACTION ON SB 209

Motion: REP. GILBERT MOVED SB 209 BE CONCURRED IN.

Discussion: REP. RANEY said a technical amendment is needed. The reference to SB 377 should be HB 377.

Motion/Vote: REP. RANEY MOVED TO STRIKE "SENATE" ON LINE 21, PAGE 12, AND INSERT "HOUSE". Motion carried unanimously.

Motion: REP. GILBERT MOVED TO REINSERT LANGUAGE ORIGINALLY IN THE BILL ON THE BOTTOM OF PAGE 2 THROUGH PAGE 3, STRIKING LANGUAGE INSERTED BY THE SENATE AND READJUSTING THE LICENSE AND APPLICATION FEES TO THE AMOUNT INITIALLY INTRODUCED.

Discussion: Paul Sihler, EQC, asked the committee to pass a conceptual amendment if it decides to amend the bill so that he can work on the sections as needed.

Vote: Motion to adopt a conceptual amendment carried unanimously.

Motion: REP. GILBERT MOVED SB 209 BE CONCURRED IN AS AMENDED. Motion carried unanimously. Reps. Ream and Wanzenried were absent from voting.

REP. GILBERT said he would carry SB 209.

#### EXECUTIVE ACTION ON SB 346

Motion: REP. GILBERT MOVED SB 346 BE CONCURRED IN.

Discussion: REP. Gilbert said the top of Page 2 talks about a \$5 per ton fee. That fee is an arbitrary number. If waste is imported, the fee will be adjusted up or down according to the actual cost to the state.

Vote: Motion carried unanimously. Reps. Ream and Wanzenried were absent for voting.

REP. GILBERT said he would carry SB 346.

EXECUTIVE ACTION ON HB 731

Motion: REP. COHEN MOVED HB 731 DO PASS.

Discussion: REP. COHEN said Stan Bradshaw, Janet Ellis, Bud Clinch, Gordy Sanders from Champion International and Mr. Sihler worked on the amendments.

Mr. Sihler distributed the amendments and a grey bill incorporating them. EXHIBIT 13-14 He said the first two amendments simply change terminology. No. 4 on the amendment sheet adds a new statement of intent. Line 3 on Page 7 through Line 12 on Page 8 deletes the "standards" section and inserts new ones. This refers to regulatory practices in a stream-side management zone.

Section 7 on Page 12, the rule-making section, directs the Department to develop regulations to implement the standards. The rule-making occurs with the assistance of a technical committee, which involves all interested parties from government, industry and the conservation community. A large issue was wildlife, which was taken out as a regulatory standard and left in as a guideline. The bill as drafted had a criminal penalty on Page 10, Subsection 2, which was changed to a civil penalty of \$1,000.

Motion: REP. KNOX moved to adopt the amendments.

Discussion: REP. GILBERT referred to amendment 12 and asked if the intent of instituting a civil penalty is to double fine.

Mr. Sihler said the civil penalty applies to the act, which may or may not relate to a 310 violation. A 310 violation is primarily for running equipment through the stream area.

Potentially, there may be some parallel between 310 violations and the standards for operating wheel or track vehicles except on established roads. REP. GILBERT said it refers to water quality or 310, and it appears there will be a \$1,000 fine. There may be a fine for water quality and 310 violations.

REP. COHEN said the stream-side management zone is a strip at least 50 feet wide on each side of the stream, lake or other body of water. Both 310 and water quality regulations have applications within the banks of the stream.

Stan Bradshaw, Trout Unlimited, said that as a practical matter, if someone seeks a civil penalty, a criminal penalty will not be sought. He has worked for the Health Department doing water quality and subdivision violations for three years, basically filing complaints. If one was filed, the other was not.

Principles in the law suggest that is not allowed. Theoretically there is potential for multiple penalties, but the likelihood of that happening is very slim.

Vote: Motion to adopt amendments carried unanimously. Reps. Ream

and Wanzenried were absent for voting.

Motion: REP. COHEN MOVED HB 731 DO PASS AS AMENDED.

Discussion: REP. GILBERT said he believes that going to mandatory regulation is violating the trust and does not give voluntary controls a chance to work. He will not support the bill. REP. COHEN said these are voluntary.

REP. RANEY asked if why is there a \$1,000 fine if it is voluntary. REP. GILBERT read from the bill that "it is the intent of the Legislature that the Department of State Lands adopt rules to implement management standards provided from Section 3 as enforceable standards for stream-side management zones."

Vote: Motion that HB 731 do pass as amended carried 13-3, with Reps. Nelson, Knox and Gilbert voting no. Reps. Ream and Wanzenried were absent for voting.

Motion: REP. GILBERT MOVED TO RECONSIDER ACTION ON HB 731 AS AMENDED. Motion carried unanimously.

#### EXECUTIVE ACTION ON SB 266

Motion: REP. SOUTHWORTH MOVED SB 266 BE CONCURRED IN.

Motion: REP. RANEY moved to adopt amendments. EXHIBIT 22

Discussion: REP. RANEY said the law as passed had several applications. The one most important to him was protection against coal slurry pipelines. Those pipelines would not be put in place and use groundwater without legislative approval. Removing that section makes it possible to establish a coal slurry pipeline using groundwater without legislative approval. That is good reason to have the section in the law.

REP. GILBERT asked how much water is involved. REP. RANEY said 3,000 acre-feet. Anything under 3,000 acre-feet is insufficient to run a coal slurry pipeline. There are no other appropriations of groundwater of that size. It is an industrial restriction. Karen Barclay, DNRC Director, removed the section, without realizing the concerns. Ms. Barclay supports the proposed amendment.

Vote: Motion to adopt REP. RANEY's amendments carried unanimously. Reps. Ream and Wanzenried were absent for voting.

Motion: REP. SOUTHWORTH MOVED THAT SB 266 BE CONCURRED IN AS AMENDED. Motion carried unanimously. Reps. Ream and Wanzenried were absent for voting.

REP. RANEY suggested REP. CHARLES SWYSGOOD, HD 73 - Dillon, be notified that he will carry the bill.

HOUSE NATURAL RESOURCES COMMITTEE

March 19, 1991

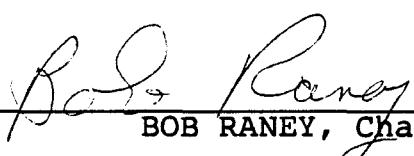
Page 17 of 17

Announcements:

REP. COHEN said the House Property Tax Subcommittee was given a bill concerning air quality permits. The bill should have been referred to Natural Resources. He invited members to the subcommittee hearing.

ADJOURNMENT

Adjournment: 6:30 p.m.

  
\_\_\_\_\_  
BOB RANEY, Chair

  
\_\_\_\_\_  
LISA FAIRMAN, Secretary

BR/lf

HOUSE OF REPRESENTATIVES  
NATURAL RESOURCES COMMITTEE

## **ROLL CALL**

DATE 3-19-91

3-2-91  
JDB

HOUSE STANDING COMMITTEE REPORT

March 20, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that Senate Bill 400 (third reading copy -- blue) be concurred in as amended.

Signed: 

Bob Raney, Chairman

Carried by: Rep. Southworth

And, that such amendments read:

1. Title, line 7.

Following: "LIABLE;"

Insert: "CLARIFYING THE PROHIBITION AGAINST DUMPING SOLID WASTE ON PUBLIC PROPERTY;"

2. Page 1, line 19.

Following: "public"

Strike: "recreational"

3. Page 1, line 24.

Following: "public"

Strike: "recreational"

4. Page 2, lines 17 and 18.

Following: "exceed" on line 17

Strike: "\$1,000"

Insert: "\$5,000

Following: ":"

Strike: the remainder of lines 17 and 18

5. Page 2, line 24.

Following: "public"

Strike: "recreational"

2:00  
3-2-91  
JDB

HOUSE STANDING COMMITTEE REPORT

March 20, 1991

Page 1 of 2

Mr. Speaker: We, the committee on Natural Resources report that Senate Bill 209 (third reading copy -- blue) be concurred in as amended.

Signed: 

Bob Raney, Chairman

Carried by: Rep. Gilbert

And, that such amendments read:

1. Page 2, line 21.

Following: "renewal"

Insert: "and a volume fee related to the estimated amount of solid waste to be disposed of each year. All solid waste systems must pay these fees in order to receive a license under 75-10-221. The initial volume fee may not exceed 31 cents per ton.

For the purposes of estimating the volume for small solid waste management systems or for systems that choose not to weigh or measure the volume of waste managed, the following formulas are suggested:

Solid waste should be assumed to be generated at the following per capita rates:

<u>Population</u>	<u>Tons Per Year</u>
Greater than 5,000	1.04
1,000 - 5,000	0.59
Less than 1,000 and unincorporated areas	0.41

For the purpose of conversion between solid waste weight and volume, the following equivalents are suggested:

- (1) One uncompacted cubic yard equals 300 pounds; and
- (2) One compacted cubic yard equals 700 pounds."

2. Page 9, line 1.

Strike: "AND"

3. Page 9, line 8.

Strike: "\$8,000"

Insert: "\$3,500"

4. Page 9, line 11.

Strike: "\$6,000; AND"

Insert: "\$3,000;"

March 20, 1991  
Page 2 of 2

5. Page 9, line 13.

Strike: "\$4,000."

Insert: "\$2,500; and

(c) a volume-based fee on solid waste disposal."

6. Page 12, line 21.

Strike: "SENATE"

Insert: "House"

2:00

3-20-

JDB

HOUSE STANDING COMMITTEE REPORT

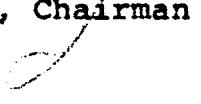
March 20, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that Senate Bill 346 (third reading copy -- blue) be concurred in.

Signed: 

Bob Raney, Chairman

Carried by: Rep. Gilbert 

HOUSE STANDING COMMITTEE REPORT

March 21, 1991

Page 1 of 4

Mr. Speaker: We, the committee on Natural Resources report that House Bill 731 (first reading copy -- white) do pass as amended.

Signed: 

Bob Raney, Chairman

And, that such amendments read:

1. Title, lines 5, 7, and 12

Strike: "RIPARIAN"

Insert: "STREAMSIDE"

2. Page 1, line 16.

Page 3, lines 13 and 19.

Page 4, lines 11, 15, and 24.

Page 5, lines 1, 4, and 8.

Page 7, line 2.

Page 9, lines 9 and 20.

Page 10, line 21.

Page 12, line 18.

Strike: "riparian"

Insert: "streamside"

3. Page 1, line 21.

Strike: "protection"

Insert: "management"

4. Page 1, line 24 through page 3, line 11.

Strike: "It" on page 1, line 24 through "wildlife." on page 3, line 11

Insert:

"It is the intent of the legislature that the department of state lands adopt rules to implement the management standards provided for in [section 3] as enforceable standards for streamside management zones. These standards are to be coordinated with the objectives and guidelines contained in the existing system of voluntary best management practices, which will still guide forest practices outside of the streamside management zone. The department shall adopt rules governing the harvest of timber in streamside management zones to ensure the retention of merchantable and submerchantable timber necessary to

maintain the integrity of the streamside management zone. The department shall also adopt rules under which owners and operators may receive approval for alternative practices under the criteria and procedures provided in [section 3(2)].

It is the intent of the legislature that the department develop voluntary, nonenforceable guidelines concerning the selection and retention of trees and vegetation, including snags, for wildlife habitat within the streamside management zone.

It is the intent of the legislature that the department establish an interdisciplinary technical committee to assist the department in adopting rules, developing voluntary guidelines for the management of wildlife habitat, and monitoring the implementation of this bill. The members of the committee should have technical knowledge or expertise in water quality, wildlife management, or forest management and include representatives from the U.S. forest service; U.S. bureau of land management; the Montana departments of health and environmental sciences and fish, wildlife, and parks; conservation districts; the Montana state university extension forestry program; the Montana forestland conservation experiment station; the forest products industry; and the conservation community.

To the extent practical, the department should conduct onsite consultations under [section 4] in conjunction with consultations or inspections conducted pursuant to Title 76, chapter 13, parts 1 and 4. It is also the intent of the legislature that whenever department personnel in the field notice a probable water quality or 310 permit violation that they notify the appropriate authority.

It is the intent of the legislature that the department, with the assistance of the technical committee, evaluate the implementation of this bill, develop recommendations to address problems, if any, that arise, and report its findings and recommendations to the environmental quality council."

5. Page 4, line 25.

Strike: "standards"

Insert: "guidelines"

Strike: "protection"

Insert: "management"

6. Page 6, lines 9 through 18.

Strike: subsection (7) in its entirety

Renumber: subsequent subsections

7. Page 6.

Following: line 22

Insert: "(8) "Streamside management zone" or "zone" means the stream, lake, or other body of water and an adjacent area of varying width where management practices that might affect

wildlife habitat or water quality, fish, or other aquatic resources need to be modified. The streamside management zone encompasses a strip at least 50 feet wide on each side of a stream, lake, or other body of water, measured from the ordinary high-water mark, and extends beyond the high-water mark to include wetlands and areas that provide additional protection in zones with steep slopes or erosive soils."

8. Page 7, line 1.

Strike: "Purposes and standards"

Insert: "Standards"

9. Page 7, line 3 through page 8, line 12.

Strike: "forest" on page 7, line 3 through "protected." on page 8, line 12

Insert: "the following practices are prohibited in a streamside management zone:

- (a) broadcast burning;
- (b) the operation of wheeled or tracked vehicles except on established roads;
- (c) the forest practice of clearcutting;
- (d) the construction of roads except when necessary to cross a stream or wetland;
- (e) the handling, storage, application, or disposal of hazardous or toxic materials in a manner that pollutes streams, lakes, or wetlands or that may cause damage or injury to humans, land, animals, or plants.
- (f) the side-casting of road material into a stream, wetland, or watercourse; and
- (g) the deposit of slash in streams or other water bodies."

10. Page 9, lines 2 through 4.

Strike: "that" on line 2 through "retained" on line 4

Insert: "for the sole purpose of harvesting additional trees"

11. Page 10, line 9.

Strike: "(a)"

12. Page 10, lines 11 through 16.

Strike: "is" on line 11 through "both" on line 16

Insert: "shall be subject to a civil penalty not to exceed \$1,000"

13. Page 10, lines 16 and 17.

Strike: the second "of" on line 16 through "is" on line 17

Insert: "constitutes"

14. Page 10, lines 18 through 22.

Strike: subsection (b) in its entirety

March 21, 1991  
Page 4 of 4

15. Page 12, line 14.  
Strike: "purposes and"

16. Page 12, line 20.  
Strike: "and"

17. Page 12, lines 21 and 22.  
Strike: "including" on line 21 through "7]" on line 22  
Insert: "governing the alternative practices provided for in  
[section 3]; and  
(4) regulating the harvest of timber in streamside  
management zones"

CLERICAL

HOUSE Bill No. 731

Date: 3/22/91

Time: 11:00

SBA

(Legislative Council Staff)

Natural Resources  
S / H Standing Committee

(Chairman) *Bob Raney*  
Raney

S / H Committee of the Whole

(Sponsor)

In accordance with the Rules of the Montana Legislature, the following clerical errors may be corrected:

Amendment #2

Page 10, line 21

new amendment #14 strikes page 10, lines 18  
through 22 in their entirety

Page 10, line 17.

Strike: ";"

Insert: ":"

due to amendment #14  
removing (b)

2:00

3-20-91

JDB

HOUSE STANDING COMMITTEE REPORT

March 20, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that Senate Bill 266 (third reading copy -- blue) be concurred in as amended.

Signed: 

Bob Raney, Chairman

Carried by: Rep. 

And, that such amendments read:

1. Title, lines 16 and 17.

Following: "MCA;" on line 16

Strike: "REPEALING SECTION 85-2-317, MCA;"

2. Page 29, lines 11 and 12.

Strike: section 11 in its entirety

Renumber: subsequent sections

DEPARTMENT OF  
HEALTH AND ENVIRONMENTAL SCIENCES

EXHIBIT 1  
DATE 3-19-91  
SB 209



STAN STEPHENS, GOVERNOR

FAX #(406) 444-1499

STATE OF MONTANA

OFFICE LOCATION: 836 Front Street  
Helena, Montana

MAILING ADDRESS: Cogswell Building  
Helena, MT 59620

Solid and Hazardous Waste Bureau  
(406) 444-1430

February 8, 1991

**DHES TESTIMONY ON SB 209  
SOLID WASTE FEE BILL**

DHES supports the adoption of a solid waste fee system to fund increased state solid waste management efforts in Montana. Five significant issues are driving the need for additional staff and resources at the state level now:

- 1) Importation - Montana must regulate the disposal of out-of-state generated wastes in essentially the same manner as in-state generated solid wastes are regulated. Several informal proposals for landfilling or incineration of large quantities of imported special and solid wastes are under consideration across the state. Other states that have attempted to regulate imported solid wastes more stringently than in-state wastes have had their regulatory programs declared unconstitutional.
- 2) State Primacy in Solid Waste - New Federal rules (commonly known as Subtitle-D) for landfill siting, operation, monitoring and recordkeeping are pending. For Montana to retain Primacy in Solid Waste the state must have a system of laws, regulations, and adequate staff and funding to receive a Determination of Adequacy by the Federal EPA.
- 3) Increase in Number and Complexity of License Applications - DHES is now processing 8 solid waste management system license applications. At least 16 other license applications will be filed within the next year. At present there are several landfill license applications under review by program staff that include designs for liners, covers, and leachate collection systems. Several of the pending applications will include similar design components as well as methane monitoring and collection systems. Currently there are no licensed landfills in Montana with either liners or leachate collection systems.
- 4) Broadening Scope of Solid Waste Program Responsibilities - Public interest, changing regulations and emerging technologies are causing the solid waste program to broaden the scope of program activities to include: waste reduction, recycling, incineration, composting, and baling. Also new technologies are required to license the management of special wastes such as: infectious waste, medical waste, used oil, household hazardous wastes, conditionally exempt small quantities of hazardous wastes, tires, and batteries.

5) Inspections - The four issues outlined above will result in an increased work load for DHES's solid waste facility inspection staff. More time will be required at each site to assess the compliance status of these complex solid waste management and disposal systems. Technical assistance and advice to the owners and operators of the facilities will result in inspectors staying longer at each site, resulting in fewer sites being visited on each inspection trip.

For larger metropolitan areas of Montana such as Billings or Great Falls the fees will result in an increased annual cost per capita of 45 cents or less. Program funding sources are (Figure 1): general fund (30%), new license applications (31%), license renewals (11%), and a per ton disposal fee (28%). The proposed disposal fee of 31 cents per ton is low compared to other states (Figure 2).

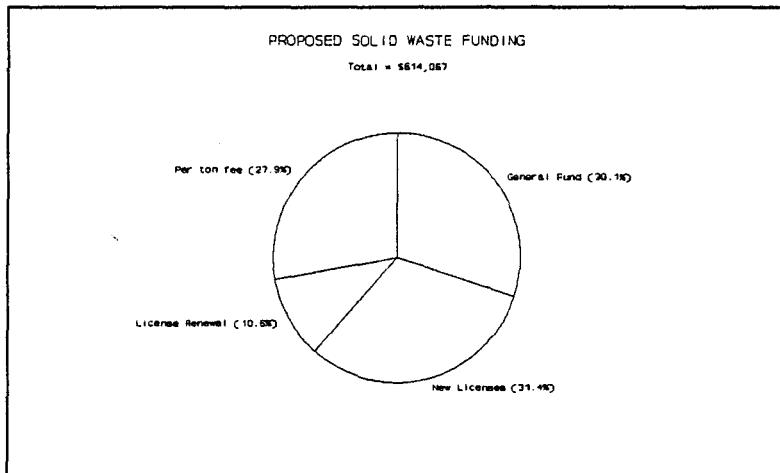


Figure 1 - Breakdown of Solid Waste Funding by source.

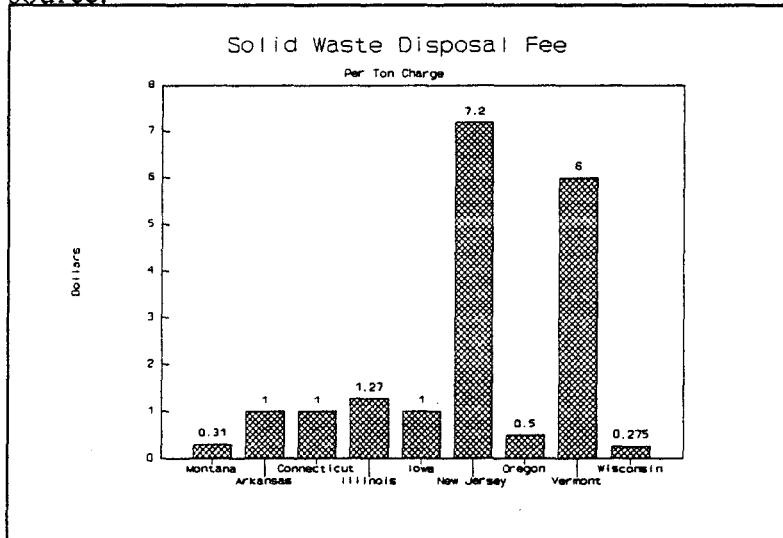


Figure 2 - Montana's proposed per ton fee compared to other states.

Bureau and Section Level (34)

PROGRAM  
MANAGER

Attorney

IMPLEMENTATION

Subtitle  
D, Landfill  
Inspector  
( $\frac{1}{2}$  time)

Solid  
Waste  
Inspecting  
( $\frac{1}{2}$  time)

Special  
Waste &  
Lacquers  
Inspector  
( $\frac{1}{2}$  time)

Ground  
Water  
Monitoring  
( $\frac{3}{4}$  time)

Database  
Design &  
Management

TECHNICAL SUPPORT  
AND PLANNING

Integrated  
Waste  
Management  
State Plan

Landfill  
Operator  
Training &  
Certification

SUPPORT  
STAFF

Supervisory  
Clerk  
( $\frac{1}{4}$  time)

Clerk

Clerk  
( $\frac{1}{2}$  time)

Fees  
Audit  
Clerk  
( $\frac{1}{2}$  time)

LICENSING

Subtitle  
D, Landfill  
Licensing  
( $\frac{1}{2}$  time)

Solid  
Waste  
Licensing  
( $\frac{1}{2}$  time)

Special  
Waste &  
Insolvents  
Licensing  
( $\frac{1}{2}$  time)

Ground  
Water  
Monitoring  
( $\frac{1}{4}$  time)

ANTICIPATED SOLID WASTE PROGRAM ORGANISATION IN FY 1993

ADG 11/3/90

EXHIBIT 1  
DATE 3-19-91  
# SB 209



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

EXHIBIT 2

DATE 3-19-91

~~ESB~~ 209

FEB 12 1991

OFFICE OF  
SOLID WASTE AND EMERGENCY RESPONSE

MEMORANDUM

SUBJECT: Draft 92 RCRA Implementation Plan

FROM: *u.a.g*  
Don R. Clay  
Assistant Administrator

TO: *h* Regional Waste Management Directors

Attached is the draft FY 92 RCRA Implementation Plan (RIP) for your review. Please send comments by March 4 to Judy Kertcher (OS-110) with a copy to the Directors of the Offices of Solid Waste (OS-300) and Waste Programs Enforcement (OS-500).

The draft RIP presents a new approach to managing the hazardous waste program. It expands our efforts to set priorities and allocate resources based on environmental benefit, while allowing you and States flexibility to deal with your most pressing environmental problems. I look forward to hearing your reaction to the framework we've proposed.

We will host a meeting on the draft RIP on February 28 at Crystal City, Virginia, Gateway Marriott Hotel. An agenda is being sent to your staff under separate cover.

Thank you for your help with drafting this guidance document. I look forward to hearing your and the States' views on the final document.

Attachment

cc: Tom Kennedy, Executive Director  
ASTSWMO

EXHIBIT 2  
DATE 3-19-91  
~~HB~~ SB 209

## FY 92 DRAFT RIP

February 4, 1991

## TABLE OF CONTENTS

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CHAPTER ONE:	OVERVIEW OF FY 1992 RCRA IMPLEMENTATION PLAN: A New Approach to Managing the National Hazardous Waste Program.....	1-1
	Background.....	1-1
	The 1992 RIP.....	1-2
CHAPTER TWO:	PRIORITY RANKING OF FACILITIES.....	2-1
	Applying the Facility Ranking Approach.....	2-4
	Regional and State Roles in the Prioritization of Facilities.....	2-7
	Ranking Facilities During FY 91-92 Transition and Beyond.....	2-7
	Identifying Needed Regulatory Actions at Facilities.....	2-10
CHAPTER THREE:	MAKING AND DOCUMENTING CHOICES.....	3-1
	Management Plans and Reports.....	3-5
	Regional Strategic Planning Process.....	3-8
CHAPTER FOUR:	KEY ACTIVITIES AND STARS MEASURES.....	4-1
	Program Management Activities.....	4-1
	Implementing an Effective Data Management System (RCRIS).....	4-1
	States as Primary Implementers of RCRA Program.....	4-3
	Program Implementation Activities.....	4-4
	Addressing Boilers and Industrial Furnaces.....	4-5
	Post-Closure Permitting Progress.....	4-6
	Demonstrating Operating Permit Progress.....	4-7

Focusing Corrective Action to  
Achieve Timely Risk Reduction.....4-6

CHAPTER FIVE: COMPLIANCE MONITORING AND ENFORCEMENT.....	5-1
Yearly Management Plans.....	5-2
STARS.....	5-3
Priority Activities.....	5-3
Inspections.....	5-3
Enforcement Response.....	5-7
Strategic Targeting.....	5-10
Enhanced Capability.....	5-10
CHAPTER SIX: MUNICIPAL AND INDUSTRIAL SOLID WASTE MANAGEMENT.....	6-1
Program Objectives.....	6-1
Municipal Solid Waste National Priorities.....	6-1
Industrial Solid Waste National Priorities.....	6-1
Overview of Municipal Solid Waste Activities...	6-2
Major Activities for Municipal Solid Waste.....	6-4
APPENDIX I: STARS	
APPENDIX II: STATE GRANT FORMULA	
APPENDIX III: A - LIST OF NEW AND PROPOSED REGULATIONS	
B - RELEVANT GUIDANCE DOCUMENTS	

2  
DATE 3-19-91  
FEB SB 209

## CHAPTER 6

### MUNICIPAL AND INDUSTRIAL SOLID WASTE MANAGEMENT

#### Program Objectives

The objectives of EPA's municipal and industrial solid waste (MISW) program are to: (1) ensure protection of health and the environment; (2) comply with the mandates of Subtitle D of RCRA; (3) support a team approach to promote and implement integrated waste management and Challenges for the 1990's; (4) work toward achieving the 25% national goal of source reduction and recycling by 1992; and (5) renew a national leadership presence through technical assistance and information development and dissemination.

#### Municipal Solid Waste National Priorities

State/Tribal program development and implementation of the revised criteria for MSW landfills (Part 258) remain the first priorities for Headquarters, the Regions, and the States/Tribes in FY 92. The other national priorities listed in this chapter are not ordered in terms of importance but represent a comprehensive framework for implementing the municipal solid waste program effectively. Each Region and State/Tribe should determine its progress in these national priority activities and establish Regional and State/Tribal priorities drawn from the major activities listed later in this chapter.

- o Enhance the Federal-State/Tribal partnership by working with States/Tribes to develop permit programs to ensure compliance with the revised criteria and to develop approvable applications.
- o Promote the implementation of the revised criteria.
- o Promote the goals of Challenges for the 1990's through effective implementation.
- o Encourage source reduction activities by providing project support and technical assistance.
- o Support recycling efforts through market development and procurement activities.

40 CFR Part 258  
Subtitle-D

## Industrial Solid Waste National Priorities

Data collection and analysis are the first priorities for the industrial solid waste program in FY 92. In FY 91, the Agency began collecting data on industrial waste generation, waste minimization and waste management practices. After analyzing this data and characterizing the industrial solid waste universe, EPA will begin exploring innovative pollution prevention and waste management incentives to address public health and environmental problems that are identified. Priority activities include:

- o Complete data collection activities.
- o Characterize the industrial solid waste universe through an analysis of the collected data.
- o Begin exploring innovative incentives to ensure environmentally sound industrial solid waste management.

## Overview of Municipal Solid Waste Activities

State/Tribal/EPA Relationship: EPA's role in the MISW program is to facilitate State, Tribal, and local implementation of the program, including the revised criteria. Facilitation activities include regulatory and guidance development, training, technical assistance, and information development and dissemination. EPA will focus these activities on implementation of the revised criteria and State/Tribal program development.

Revised Criteria -- State/Tribal Program Development: The primary focus of our activities in FY 92 will be to assist States/Tribes in implementing the revised municipal solid waste landfill criteria through the development of permit programs that meet the requirements of Section 4005(c) and the requirements of the State Implementation Rule (SIR). The revised criteria will be promulgated in final form during FY 91. The SIR is scheduled for proposal in March 1991, with final promulgation scheduled for twelve months after proposal. Draft SIR guidance also is scheduled for issuance in March 1991 and will be complemented by workshops based on the SIR guidance and other training materials.

States are required to adopt and implement a permit program (or other system of prior approval and conditions) to ensure compliance with the revised criteria within eighteen months of promulgation. Tribes may seek approval of their MSW landfill permit programs. In view of the limited time between promulgation of the final SIR and the statutory deadline,

States/Tribes are urged not to wait for the final SIR rule and guidance and are encouraged to use the proposed SIR and the draft SIR guidance as a basis for reviewing current programs, developing programs that will meet the adequacy determination criteria, and drafting adequacy determination applications.  
States/Tribes should review applicable statutes, regulations, and guidance to determine their adequacy to ensure compliance with 40 CFR Part 258 based on Section 4005 (c) and the adequacy determination criteria in the proposed SIR.

Regions should continue working with the States/Tribes to assist in interpreting the revised criteria and the SIR requirements. In FY 1991, we encouraged the Regions to develop implementation plans which identify outreach activities to the States/Tribes, needed training, and schedules for receipt and review of adequacy applications. Regions should review these plans, update them as necessary, and continue to implement them as appropriate.

When States/Tribes have identified needed revisions to their statutes/regulations/guidance, they should develop a schedule for making these revisions, as well as a schedule for developing and submitting an application by the effective date of the municipal solid waste landfill (MSWLF) criteria (Part 258). If requirements of a governing Administrative Procedures Act extend the statutory or regulatory development process beyond the eighteen month schedule provided in RCRA, the State/Tribe will need to submit a letter of intent together with a schedule for application submission. Since the Regional offices will make all adequacy determination decisions, all letters of intent, schedules, and applications are to be submitted to the Regional offices for review and determination.

In addition to developing programs that meet the adequacy determination criteria, States/Tribes need to plan for implementation of the revised criteria. Efforts should be focused on addressing closing facilities to ensure compliance with the revised criteria, development of permitting and enforcement strategies, and addressing the need for continued capacity as facilities close.

Challenges for the 1990's: While criteria implementation through development and approval of State/Tribal permit programs is our primary activity, efforts need to be continued on source reduction and recycling activities. The Agency's updated national strategy, The Solid Waste Dilemma: Challenges for the 1990's, will be issued later in 1991. Challenges highlights accomplishments since February 1989, includes challenges for all levels of government, business/industry, public interest groups, and private citizens, and outlines a number of MSW activities. Specific EPA activities for FY 1992 are outlined in Challenges.

## Major Activities for Municipal Solid Waste

### Headquarters:

- Finalize the SIR, SIR guidance and training.
- Conduct criteria implementation workshops for States, Tribes and local governments.
- Continue to support development and implementation of solid waste programs on Indian lands.
- Work with Regions, States and Indian Tribes to develop training modules based on a needs assessment.
- Facilitate the implementation of Challenges for the 1990's.
- Continue to work with States/Tribes and the Regional Implementation Team to develop and implement MISW activities.
- Continue to facilitate peer matching.
- Continue to develop and distribute information on solid waste issues/areas.
- Continue outreach and development efforts in the areas of source reduction and recycling.
- Track success in reaching the national recycling goal.
- Facilitate procurement workshops in six Regions; prepare and distribute an evaluation of the workshops.
- Continue national efforts on procurement guideline development and implementation and other market development activities.
- Continue to prepare for RCRA reauthorization.
- Review State plan guidelines to determine need for revision.
- Facilitate implementation of developed solid waste curricula.
- Continue to conduct necessary solid waste research.
- Coordinate MISW's activities with pollution prevention

and public-private partnership activities.

- o Complete industrial solid waste data collection activities; analyze data and characterize the industrial solid waste universe; begin to explore innovative incentives for environmentally sound industrial solid waste management.

Regions:

- o Continue to work with State/Tribes to develop adequate permit programs and implement the revised criteria.
- o Review Regional MSWLF criteria implementation plans, update as necessary, and continue to implement the plans.
- o Conduct SIR workshops in States as appropriate.
- o Conduct MSWLF criteria training as appropriate.
- o Continue to support the development and implementation of solid waste programs on Indian lands.
- o Provide technical assistance -- including training, speeches, and presentations -- to States, Indian Tribes, and local governments.
- o Facilitate State/Tribal and local activities in implementing Solutions for the 1990's, focusing on procurement and recycling market development activities.
- o Provide assistance to States/Tribes and local communities as they work toward achieving the national recycling goal.
- o Work with Headquarters, States/Tribes, and local communities to assess and address local needs.
- o Continue outreach and development efforts in the areas of source reduction and recycling.
- o Continue Regional procurement and market development efforts, including the procurement workshops and follow-up activities.
- o Work with States to develop and implement procurement strategies.
- o Continue to participate in the Regional Implementation

Team.

- Update FY 1991 Regional solid waste strategies to identify ongoing activities and include new activities for FY 1992.
- Continue to provide monthly reports on accomplishments in the MISW program, including STARS measures.

States/Tribes/Local Governments (as applicable):

- Review applicable statutes, regulations, and guidance to determine their adequacy to ensure compliance with 40 CFR Part 258.
- Develop a schedule for making necessary revisions to statutes, regulations, and guidance.
- Develop adequate programs, if not yet in place, and an approvable adequacy application.
- Participate in SIR workshops and MSWLF criteria technical training.
- Develop strategies for implementing the revised criteria, including permitting and enforcement.
- Implement the revised criteria.
- Focus efforts on ensuring that closing facilities comply with the revised criteria and close in an environmentally sound manner and addressing the need for continued capacity as facilities close.
- Implement Challenges for the 1990's and facilitate local implementation of Challenges for the 1990's, focusing on procurement and recycling market development activities.
- Provide assistance to local communities as they work toward achieving the national recycling goal.
- Work with EPA Regions and local communities to assess and address local needs.
- Continue outreach and development efforts in the areas of source reduction and recycling.
- Continue procurement and recycling market development efforts, including participation in EPA's procurement workshops.

DATE 3-9-91

~~SB~~ SB 209

- o Work with EPA's Regions to develop procurement strategies to comply with EPA's procurement guidelines.
- o Provide technical assistance to local governments in developing regional sites.
- o Continue to work with EPA to identify and resolve implementation issues.

OFFICE OF SOLID WASTE

FY 1992

Program Area: Municipal Solid Waste Program

GOAL: To facilitate state implementation of MSWLF criteria; to enhance markets development.

OBJECTIVE: Track progress of statutory requirements for Subtitle D.

ACTIVITY: Submittal of state application for determination of adequacy of state MSWLF permit program.

MEASURE: Number of states submitting applications for determination of adequacy under Section 3

SUNSET:

ACTIVITY: Regional determination of adequacy of state permit program.

MEASURE: Number of regional determinations of adequacy completed; include both determinations of adequacy and determinations of inadequacy.

SUNSET:

ACTIVITY: Implementation of EPA procurement guidelines under RCRA Section 6002 and 40 CFR Part 250.

MEASURE: Report on development of procurement implementation plan

EXHIBIT 2  
DATE 3-19-91  
SB 209

ACTIVITY: R/D-1c  
MEASURE: NO  
REPORTED ONLY: YES  
SUNSET: 10/91

OFFICE OF SOLID WASTE  
FY 1992  
Municipal Solid Waste Program Definitions

R/D-1a

Number of States submitting complete applications for determination of adequacy.

R/D-1b

Number of determinations Region publishes in the Federal Register; report number of determinations by adequate and inadequate.

R/D-1c

Report when procurement implementation plan developed.

OSWER -  
3/90

**RELEVANT GUIDANCE DOCUMENTS**  
(Continued)

**Federal Facilities**

Enforcement Actions Under RCRA and CERCLA at Federal Facilities (January 25, 1988).

Elevation Process for Achieving Federal Facility Compliance Under RCRA (March 24, 1988).

Agreement with the Department of Energy--Model Provisions for CERCLA Federal Facility Agreements (May 27, 1988).

Agreement with the Department of Defense--Model Provisions for CERCLA Federal Facility Agreements (June 17, 1988).

Enforcement Actions at Government-Owned Contractor-Operated Facilities (September 8, 1988).

Federal Facilities Compliance Strategy (November, 1988).

Listing Policy for Federal Facilities (March 13, 1989).

Federal Facilities Negotiations Strategy (August 19, 1989).

**Municipal Solid Waste**

State Program Adequacy (Summer 1991).

Update of Agenda for Action (Summer 1991).

Implementation Strategy for the Revised Criteria (Summer 1991).

Study of Recent State and Tribal Municipal Solid Waste Management Plans (Spring of 1990).

Report to Congress on Methods to Manage and Control Plastic Waste (Final - February 1990).

Review of Potential Substitutes for Lead and Cadmium in Products (Draft - February 1990) (Final May 1990).

Technical Guidance on Municipal Solid Waste Landfill Criteria (Draft - Spring 1990) (Final - Summer 1990).

How to be An Environmentally Alert Consumer (Draft - February 1990) (Final - April 1990).

RELEVANT GUIDANCE DOCUMENTS  
(Continued)

Characterization of Municipal Solid Waste in the U.S. (Draft - March 1990) (Final - ?).

Decision Maker's Guide to Solid Waste Management - November 1989

Sites for Our Solid Waste: A Guidebook for Effective Public Involvement - April 1990.

Land Disposal Restriction (not including LDR enforcement guidance)

"No Migration" Variances to the Hazardous Waste Land Disposal Prohibitions: A Guidance Manual for Petitioners (Draft Interim Final) (March 1990)

Guidance on the Land Disposal Restrictions' Effects on Storage and Disposal of Commercial Mixed Waste (9555.00-01) (September 1990)

Case-By-Case Extensions: A Guidance Document to Support the Land Disposal Restriction (Draft 1988)

Mixed Waste

Guidance on the Definition and Identification of Radioactive Mixed Waste (9440-1) (January 1987)

Guidance on the Definition and Identification of Commercial Mixed Waste Low-Level Radioactive and Hazardous Waste and Answers to Anticipated Questions (October 4, 1989)

State Programs

Capability Assessments for RCRA Authorization Program Revisions (April 9, 1987).

Capability Assessment Guidance - 1990 Edition

RCRA Quality Criteria (revised July 1986).

Protocols for evaluating permit quality and closure/post-closure plans (August 1986).

Enforcement Response Policy (December 21, 1987).

RCRA Program Evaluation Guide (July 1988).

Revised 1-16-91

MACO SOLID WASTE TASK FORCE POSITION PAPER ON  
ENVIRONMENTAL QUALITY COUNCIL'S PROPOSALS  
ON SOLID WASTE MANAGEMENT

HB 160, 263, 139  
377

*HB 160*

AN ACT ESTABLISHING A SOLID WASTE REDUCTION TARGET; ESTABLISHING INTEGRATED WASTE MANAGEMENT PRIORITIES; ESTABLISHING A STATE GOVERNMENT SOURCE REDUCTION AND RECYCLING PROGRAM; DIRECTING THE DEPARTMENT OF ADMINISTRATION TO DEVELOP PROCUREMENT GUIDELINES FOR RECYCLED MATERIALS; AUTHORIZING THE PREPARATION OF A STATE SOLID WASTE MANAGEMENT PLAN; AND AMENDING 75-10-104, MCA. ("LCIWM")

Action taken: Support

It was agreed that any state plan developed pursuant to the proposed legislation should provide for meaningful local government input and involvement. After discussion, however, the Task Force took the position that in combination with existing statutes, the new bill would provide sufficient opportunities for local governments to be actively involved in state plan development. With this understanding it was agreed by the Task Force to support the legislation.

*HB 263*  
*(SB 21 Exempting)*

AN ACT TO ESTABLISH CLASS E MOTOR CARRIER AUTHORITY FOR THE TRANSPORTATION OF RECYCLABLES; AND PROVIDE CLASS D CARRIERS PRIORITY FOR CLASS E MOTOR CARRIER AUTHORITY. ("LCcomcarrier")

Action taken: Oppose

The discussion on this bill centered upon its creation of a preference for existing waste and garbage haulers in the certification process for a new class of recyclable haulers. Concern was expressed that monopoly conditions would be precipitated if the bill is enacted. Harry Mitchell moved that the Task Force oppose the bill, Randy Tommerup seconded the motion, and the opposing motion carried. In a subsequent meeting it was suggested that the alternatives include letting the Public Service Commission regulate fees for solid waste/recycling carriers, or to award automatic Class D status to any successful bidder.

*SB 19*

AN ACT PROVIDING A PREFERENCE FOR PRIVATELY OPERATED SOLID WASTE MANAGEMENT SYSTEMS; PROVIDING AUTHORITY TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO DEVELOP PROCEDURES TO DETERMINE WHETHER SOLID WASTE MANAGEMENT SYSTEMS SHOULD BE PRIVATELY OR PUBLICLY OPERATED; AND AMENDING SECTIONS 75-10-102, 75-10-104, 75-10-106. ("LCpvtpubl")

Action taken: Oppose

*HB139*

The opposition to the private preference expressed in the December 18th meeting was reiterated by several Task Force members and other commissioners. Concerns about resulting monopolization and the potential for county liability were underscored. Randy Tommerup moved that the Task Force oppose the bill, John Allstad seconded, and the opposing motion carried.

*HB139*

AN ACT TO EXTEND THE MORATORIUM ON CERTAIN INTERSTATE TRANSPORT OF SOLID WASTE; AMENDING SECTION 75-10-209, MCA. ("LCmorator")

Action taken: No action

It was explained that the bill that the bill would extend existing restrictions on the import of solid waste ("for incineration or disposal") from October 1, 1991 to October 1, 1993.

AN ACT BANNING THE USE OF WASTE OIL AS A DUST SUPPRESSANT ON PUBLIC ROADWAYS; AND REQUIRING OIL RETAILERS TO DISPLAY A SIGN INDICATING THE LOCATION OF THE NEAREST WASTE OIL COLLECTOR. ("LCoil")

Action taken: Support

The question was raised as to whether federal regulations now classify most crankcase oil as hazardous. Harry Mitchell moved that the Task Force support the bill, Randy Tommerup seconded, and the supporting motion carried.

*HB239*

AN ACT ESTABLISHING MANAGEMENT STANDARDS FOR INFECTIOUS WASTE; AND AUTHORIZING PROFESSIONAL AND OCCUPATIONAL BOARDS TO IMPOSE ANNUAL FEES. ("LCinfwst")

Action taken: Support

Carlo Cieri reported that hospitals, morticians, and physicians had been represented during the EQC's deliberations on the proposed bill, and that agreement had been reached on it among them. Mr. Cieri moved that the Task Force support the bill, Randy Tommerup seconded, and the supporting motion carried.

*SB189*

AN ACT FOR THE CODIFICATION AND GENERAL REVISION OF LAWS RELATING TO SOLID WASTE MANAGEMENT BY LOCAL GOVERNMENTS; AUTHORIZING MULTI-COUNTY SOLID WASTE DISTRICTS; AMENDING SECTIONS 7-5-2306, 7-5-4304, 7-5-4321, 7-7-2501, 7-7-4402, 7-13-202, 7-13-204, 7-13-209, 7-13-212, 7-13-215, 7-13-232, 7-13-233, 7-13-235, REPEALING SECTIONS 7-13-241 thru 7-13-243, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. ("LCregact")

Action taken: No action

DATE 3-19-91  
SB 209, 27, 99, 189, 114  
344

HB 160, 263, 139, 289, 37

John Allstad opposed the provisions within the bill which would allow the board of a joint solid waste district to obligate individual counties for levies not to exceed two mills to correct revenue deficiencies for payment of bonds. Harry Mitchell indicated that the proposal may be necessary to permit issuance of and sale of bonds to fund solid waste facilities. Harry Mitchell made a motion to support the bill, the motion was seconded, but a tie vote on the supporting motion resulted a Task Force position of no action. It was further suggested and agreed that the Task Force oppose the change in allowable length of contract from 5 to 10 years (a measure to assist private facility operators) unless the preference for private operators is defeated.

AN ACT ESTABLISHING A SOLID WASTE MANAGEMENT FEE ON WASTE GENERATED OUT-OF-STATE; AMENDING SECTION 75-10-117; REPEALING SECTIONS 75-10-110 AND 75-10-115, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. ("LCdifferfee")

SB 346  
Action taken: Oppose

Chairman Pruitt questioned the provisions in the bill which makes the \$5 fee per ton on out-of-state generated waste payable to the state as opposed to the facility operator. Randy Tommerup moved to oppose the bill, it was seconded, and the opposing motion carried. In a subsequent meeting, members were told that the fee would be earmarked for full-time mega-landfill inspectors, and that local operators might have the ability to impose their own fees. Because of the bill to continue the moratorium on out-of-state waste, the effective date of this bill would be delayed for 2 years.

AN ACT ESTABLISHING A CERTIFICATION AND LICENSING PROCESS FOR MEGA-LANDFILLS; SUPERSEDING OTHER LAWS OR RULES; PROVIDING FOR CONTRACTS FOR INFORMATION; REQUIRING THE SUBMISSION OF LONG-RANGE PLANS; REQUIRING A Certificate OF SITE ACCEPTABILITY; SPECIFYING ENVIRONMENTAL FACTORS TO BE EVALUATED; REQUIRING A FILING FEE; PROVIDING A CONTESTED CASE HEARINGS PROCESS; SPECIFYING DECISION MAKING CRITERIA; REQUIRING A LICENSE; REQUIRING MONITORING; PROVIDING FOR ENFORCEMENT BY RESIDENTS; PROVIDING A MECHANISM TO RECOVER DAMAGES FOR CONTAMINATION OF A DRINKING WATER SUPPLY; PROVIDING JUDICIAL REVIEW; PROVIDING PENALTIES FOR VIOLATIONS; PROVIDING A SURETY BOND; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. ("LCMLSA2")

HB 371

AND

AN ACT PROVIDING FOR A LOCAL REFERENDUM ON THE ESTABLISHMENT OF A MEGA-LANDFILL; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. ("LCreferendum")

SB 114  
Action taken: Combine Mega landfill bill with referendum bill

and Support.

It was agreed that the two bills should be considered together. Harry Mitchell moved to support the combined bill, Randy Tommerup seconded, and the motion to support carried.

5B209

AN ACT TO REQUIRE SOLID WASTE MANAGEMENT SYSTEMS TO OBTAIN A LICENSE EACH YEAR FROM THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES, AND TO REQUIRE EACH APPLICANT FOR A LICENSE TO PAY AN APPLICATION FEE; AUTHORIZING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCE TO COLLECT FEES; AMENDING SECTIONS 7-13-231, 75-10-102, 75-10-115, 75-10-204, AND 75-10-221; PROVIDING A RETROACTIVE APPLICABILITY DATE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Action taken: Support as amended.

It was suggested that the Department of Health be contacted for further information on the budgetary expansion. After evaluation of the budgetary rationale, appropriate fees could be more accurately evaluated. For this purpose a Subcommittee consisting of David Pruitt, Gordon Morris, Linda Stoll-Anderson and Larry Fasbender was appointed. In addition, the Subcommittee was charged with examining the question of whether garbage haulers should be exempted from PSC regulation.

It was further agreed that an advisory memo regarding the Task Force's recommendations be sent to all counties. Larry Fasbender suggested that in the meantime, contacts with legislators begin to be initiated by Task Force members before the legislators arrive in Helena. Likewise, it was agreed that the PSC should be notified of the Task Force's positions on solid waste management legislation involving PSC regulations.

MACo officials met with the Solid Waste Bureau, Dept. of Health and Environmental Sciences to examine the department's budget request and fee proposal. Tony Grover said the department had reconsidered the proposed budget and found faulty assumptions in their own figures. They have revised the total budget needed to fund the 13 FTE's, with the result that proposed per ton fees would drop from \$.72 to \$.48. In addition, the Fiscal Analyst's budget has an additional \$81,000 per year for the Bureau, which would reduce the required fee schedule to about \$.34 per ton.

A tentative proposal to award MACo a contract to train landfill operators would further remove one FTE from the Solid Waste Bureau's budget, effectively reducing the required tipping fees to about \$.26 per ton.

MACo will attend the Appropriations Subcommittee hearing on the Solid Waste Bureau budget and support adopting the Fiscal Analyst's budget figures.

MR. CHAIRMAN AND COMMITTEE MEMBERS. MY NAME IS PETE FRAZIER, DIRECTOR OF ENVIRONMENTAL HEALTH WITH THE CITY-COUNTY HEALTH DEPARTMENT IN CASCADE COUNTY. IN ADDITION I HAVE SERVED AS THE DIRECTOR OF THE CASCADE COUNTY SOLID WASTE DISPOSAL DISTRICT SINCE ITS CREATION 20 YEARS AGO.

WE SUPPORT SB 209 WITH RESERVATIONS. WE AGREE THAT FOR MANY YEARS THE SOLID AND HAZARDOUS WASTE BUREAU'S LANDFILL PROGRAM HAS BEEN SERIOUSLY UNDER FUNDED AND UNDER STAFFED. IT IS MY UNDERSTANDING THAT CURRENT STAFFING IS AT 2.5 FTE'S WHICH IS FUNDED FROM STATE GENERAL FUNDS. THESE FEW STAFF ARE REQUIRED TO MAKE ROUTINE INSPECTIONS OF APPROXIMATELY 50 OPERATING LANDFILLS THROUGHOUT THE STATE, INSPECT NUMEROUS OTHER LANDFILLS WHICH ARE CURRENTLY CLOSING DUE TO THE UPCOMING FEDERAL SUBTITLE D REGULATIONS, REVIEW SEVERAL NEW LANDFILL LICENSE APPLICATIONS FOR LARGER REGIONAL LANDFILLS, RESPOND TO CITIZEN'S COMPLAINTS AND PROVIDE TECHNICAL ASSISTANCE, ETC. OBVIOUSLY 2.5 PEOPLE CAN NOT PERFORM ALL OF THIS WORK. THERE IS NO QUESTION THAT THE SOLID WASTE BUREAU NEEDS INCREASED FUNDING AND STAFFING IN ITS LANDFILL PROGRAM. IT IS MY UNDERSTANDING THAT THE EQC'S INTERIM SOLID WASTE ADVISORY COMMITTEE, AFTER CONSIDERABLE DISCUSSION AND WORK RECOMMENDED THAT THE BUREAU'S STAFFING BE INCREASED TO ABOUT 8.5 FTE'S. IT WAS FELT THAT THIS STAFFING LEVEL WOULD MEET WITH EPA'S APPROVAL FOR THE STATE TO OBTAIN PRIMACY FOR ENFORCING THE UPCOMING EPA SUB-TITLE D REGULATIONS AND PROVIDE THE SOLID WASTE BUREAU TO CONDUCT THE FUNCTIONS REQUIRED *IT IS my understanding that this staffing level is low* IN A TIMELY FASHION. IT IS IMPORTANT, IN OUR OPINION THAT THE STATE SOLID WASTE BUREAU OBTAIN AND MAINTAIN PRIMACY FOR THE SUB-TITLE D REGULATION ENFORCEMENT, SINCE, ACCORDING TO AN EPA OFFICIAL, STATES WITH PRIMACY HAVE THE AUTHORITY TO PROVIDE VARIANCES FROM CERTAIN AREAS OF THE SUB-TITLE D REGULATIONS, SUCH AS LINERS, GROUNDWATER MONITORING AT SMALL LANDFILLS, ETC., AS LONG AS ADEQUATE EVIDENCE IS PROVIDED THAT NO PUBLIC HEALTH OR ENVIRONMENTAL PROBLEMS WILL EXIST IF SUCH A VARIANCE IS PROVIDED. IF THE STATE DOES NOT OBTAIN PRIMACY FROM EPA,

3-19-91 56 209

NO FLEXIBILITY WITHIN THE RULES WILL BE AVAILABLE AND NO VARIANCES WILL BE AUTHORIZED. UNDER THE CURRENT FUNDING PROPOSAL IN SB 209, OUR LANDFILL IN CASCADE COUNTY, WHICH HANDLES ABOUT 16 TONS PER DAY, WILL PAY \$6,000 PER YEAR FOR OUR ANNUAL LICENSE. BASED ON THE NEED FOR STATE PRIMACY AND AN INCREASED STAFFING LEVEL IN THE SOLID WASTE BUREAU, WE SUPPORT THIS FUNDING PROPOSAL, EVEN THOUGH IT IS HARD TO UNDERSTAND HOW AN ANNUAL INSPECTION WILL COST \$6,000. HOWEVER, WE EXPECT TO ALSO RECEIVE CONSIDERABLE TECHNICAL ASSISTANCE FROM THE STATE BUREAU CONCERNING RECYCLING PROGRAMS, HOUSEHOLD HAZARDOUS WASTE EDUCATION PROGRAMS, ETC. THEREFORE, AS LONG AS WE RECEIVE THE PROMISED SERVICES FROM THE STATE, WE SUPPORT THE FEES FOR STAFFING THE PROGRAM. IF WE DON'T, WE MAY BE BACK IN TWO YEARS ASKING THAT THESE FEES BE REDUCED.

THANK YOU.

# Waste Management of Montana - Great Falls

P.O. Box 2582

Great Falls, Montana 59403  
Fax #406-761-6391  
Phone (406) 761-2545



A Waste Management Company

EXHIBIT 5

DATE 3-19-91

HB SB 209

March 19, 1991

Montana State Legislature  
RE: Senate Bill # 209

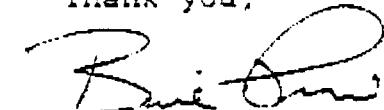
To Whom It May Concern:

I would like to go on the record in support of Senate Bill # 209.

In light of all the new federal legislature concerning landfills, and the general increase in environmental awareness throughout our society, it seems appropriate that we put some regulatory teeth into the State Dept. of Health and Environmental Sciences. Without this funding and without any teeth the Dept. would only be able to bark, they need to have the capability to bite when faced with violations. There are many entities public, and private that need a strong state agency for guidance, education and the general well being of the State of Montana.

I ask that they receive the funding they so desperately need.

Thank you,

  
\_\_\_\_\_  
Bill Price  
General Manager

BP/fil

Waste Management Partners of Bozeman, Ltd.  
Post Office Box 3588  
Bozeman, Montana 59772-3588  
406/586-0606



A Waste Management Partner

Ex. 5

3-19-91  
SB 209

March 19, 1991

Chairman  
House Natural Resources Committee  
Montana State Capitol  
Helena, Montana 59620

Dear Sir or Madam:

Please be advised that we whole-heartedly support Senate Bill 209.

While we do not presently have a landfill, we are in the process of obtaining a license for a landfill and therefore support this Bill which, among other things, provides for annual licensing and inspection for landfills.

Very truly yours,

*Robert J. Fagliano*  
Robert J. Fagliano  
General Manager

Missoula District

5

3-19-91

SB 209

March 19, 1991

Representative Bob Raney, Chairman  
House Natural Resources Committee  
Capitol Station  
Helena, MT 59620

Dear Chairman Raney & Members of the Committee:

The management and employees of B.F.I. encourage your support and passage of S.B. #209, requirements for annual permitting of solid waste landfills and the provision of fees to support a strong regulatory program within the Montana Department of Health and Environmental Sciences.

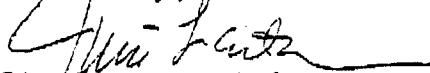
We in private enterprise in the solid waste industry are ready and able to meet the challenges of adequate environmental control of land disposal facilities in Montana and would like to see this legislation passed to insure that every operator of a solid waste landfill or incinerator in the state meets adequate environmental guidelines. In the past, regulation at the state level has been deplorably inadequate, as can easily be seen from the environmental damage at many local landfill sites.

S.B. #209 will provide uniform planning, educational and enforcement actions appropriate for the State of Montana to truly manage our solid waste for the future, rather than merely react to the generation of waste as we have for so many years.

The fee system built into the bill is fair and reasonable for all Montanans and in no case is burdensome or excessive. It is clearly the responsibility of all Montanans to provide good solid waste programs for the future.

Our employees in Missoula, Billings and Miles City encourage passage of this legislation.

Sincerely,

  
Jim Leiter, R.S.  
Landfill Manager

... Garbage Service

Ex. 5

3449 Trumble Creek Road  
892-4284 — Henry A. Hoye, Owner  
Columbia Falls, Montana 59912

3-19-91

SB 209

March 19, 1991

To all Committee Members:

No one should be allowed to operate a landfill in Montana without a license, and if the Department of Health and Environmental Sciences is going to be responsible for issuing the licenses and inspecting the landfills, they should be getting enough revenue from the licenses and annual fees to pay for the work involved.

I am in favor of Senate Bill #209.

Sincerely,

Wee Haul Garbage, Inc.

*Henry A. Hoye*

Henry A. Hoye, President

EXHIBIT 5  
DATE 3-19-91  
SB 209

BITTER ROOT DISPOSAL  
P O BOX 1008 - 172 S SECOND  
HAMILTON, MONTANA 59840  
PHONE (406) 363-3630

I believe that the department of health and environmental sciences has been woefully underfunded in the past. We now have landfills that are polluting our water supplies because of inadequate supervision by this department. Even the smallest of these landfills may contain hazardous waste.

The magnitude of the problems involving solid waste and recycling must be addressed now. It will only be more expensive in the future.

I support Senate Bill No. 209 as a means to finance the expansion of the department that must over see the facilities that handle our solid waste. The amount that must be passed on to the consumer is minuscule in comparison to the benefits.

Please vote a DO PASS on this bill.

Sincerely



Vester A. Wilson II

Ex. 5

3-19-91

SB 209

EVERGREEN DISPOSAL SERVICE  
CHARLES H. KELLY  
1970 WHALEBONE DRIVE  
KALISPELL, MONTANA 59901  
PHONE 257-1738

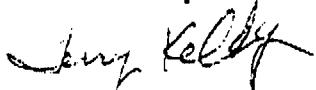
March 19, 1991

I am writing to ask for your support of Senate Bill 209. This bill would require annual license fees from existing landfills. In addition, it would require fees from applicants when new landfills are needed.

Basically, it would give the Department of Health and Environmental Sciences revenues to help manage solid waste systems in the state.

I feel this bill is a necessity because it would give a state wide approach to solid waste management. In addition, I know it will help to protect the quality of life in Montana.

Sincerely Yours,



Terry Kelly  
Evergreen Disposal, Inc.

CITY-COUNTY SANITATION  
3630 York Road  
Helena, MT 59601

5  
3-19-91  
SB 209

March 19, 1991

House Members  
Resources Committee

Dear Members;

Please note I support Senate Bill 209 regarding the Department of Health and Environmental Science.

I have been in the garbage hauling business for 26 years and in the landfill business for 3 years. Our company has worked with the Department for several years and find their professionalism is outstanding. They do a good job no matter what is needed.

Due to increased Federal Regulations, more demands are being placed on the department and they deserve the support from the people of the State of Montana. Thank you.

Sincerely,



Donna Tenneson, Owner  
City-County Sanitation

6  
DATE 3-19-91  
~~KB~~ SB 209

SENATE BILL #209  
TESTIMONY

CHAIRMAN AND MEMBERS OF THE COMMITTEE

MY NAME IS RICHARD A. NISBET, PUBLIC WORKS DIRECTOR, REPRESENTING THE CITY OF HELENA.

THE CITY OF HELENA RISES IN OPPOSITION TO SENATE BILL #209. WE ARE NOT OPPOSED TO THE ADEQUATE STAFFING OF THE SOLID WASTE BUREAU. WE REALIZE STAFFING IS NEEDED TO ENFORCE THE REGULATIONS UNDER THE BUREAU'S JURISDICTION. HOWEVER, WE FEEL THIS IS A STATE FUNCTION AND FUNDS SHOULD BE PROVIDED FROM THE STATE, NOT FROM LOCAL GOVERNMENTS. THE AMOUNT OF WORK THAT A STATE AGENCY PROVIDES IN REGULATORY OR INSPECTION PHASES IS NOT NECESSARILY RELATED TO THE SIZE OF THE FACILITY OR THE POPULATION BEING SERVED. PROBABLY THE REVERSE IS TRUE. A LARGER FACILITY, WHETHER PRIVATE OR PUBLIC, HAS ADEQUATE REVENUES TO BE OPERATED EFFICIENTLY AND TO MEET ALL ENVIRONMENTAL REGULATIONS REGARDING A LANDFILL. MANY SMALL FACILITIES HAVE LESS FUNDS AVAILABLE TO ADEQUATELY OPERATE AND MAINTAIN THESE FACILITIES. FOR THESE REASONS, WE FEEL THAT A CHARGE BASED ON SIZE, WHETHER ITS TONNAGE OR A LUMP SUM, IS NOT DIRECTLY RELATED TO THE SERVICES RECEIVED BY A PARTICULAR FACILITY. THIS DEPARTMENT AS OTHER STATE DEPARTMENTS SHOULD BE FUNDED FROM REVENUES GENERATED BY THE STATE NOT FROM LOCAL USE FEES, WHICH IN ESSENCE IS THE INTENT OF THIS LEGISLATION.

THE CITY OF HELENA ASKS THAT YOU KILL SENATE BILL #209 OR AMEND IT TO PROVIDE FUNDING FROM GENERAL GOVERNMENT REVENUES RATHER THAN LOCAL GOVERNMENT.

SB209.PWC

Changes to Senate Bill No. 99

1. Page 1, Line 6 add back after "AN ACT PROVIDING" words "A PREFERENCE FOR PRIVATELY OPERATED SOLID WASTE MANAGEMENT SYSTEMS PROVIDING "
2. Page 1, Line 9 add back after "LOCAL GOVERNMENTS" words "TO ENABLE" and delete "FOR PUBLIC INPUT"
3. Page 1, Line 10 add back after "LOCAL GOVERNMENTS" words "TO DETERMINE" and delete "ON"
4. Page 2, Line 1 add back words "required assumptions and calculations of costs and benefits" and delete "STANDARDS"
5. Page 2, Line 5 add back words "(3) justification of the decision of an applicant to use private or public management of the proposed solid waste management system."
6. Page 5, Line 19 delete after "provisions of this part;" "AND"
7. Page 5, Line 21 add back after "by a local government" "and (9) provide a procedure for local governments to determine if solid waste management systems should be operated by local government or private industry.

-END-

EXHIBIT 7  
DATE 3-19-91  
# 5399

Babs Volition,

Frank Crowley -  
Exhibit to Testimony

Re: SB 99

EXHIBIT 8  
DATE 3-19-91  
SB 99



Preservation of Tax Base: Private garbage collectors generate taxes of many types that help support the community. Studies have shown that a private firm pays excise taxes, state and local taxes, local licensing fees and other regulatory expenses, in effect, rebating about 15% of its revenues to the community.

NOTE

TAXES AND FEES PAID BY:

Private Collector:

Federal Fuel Tax  
Federal Income Tax  
Federal Truck Tax - For over 33,000 lbs  
(12% of cost)  
Federal Excise Tax on Tires  
Federal Road Use Tax  
Tax Assessed on Truck Size by # of Axles  
State Income Tax  
State Diesel Fuel Tax  
GVW Fees  
License Fees  
Real Estate Tax  
Personal Property Tax  
Consumer Council Tax

Municipal Collector:

None  
None  
None  
None  
None  
None  
None  
None  
State Tax on Gasoline  
None  
None  
None  
None  
None  
None

MONTANA SOLID WASTE CONTRACTORS, INC.

EXHIBIT 7  
DATE 3-19-91  
HB SB 99

SENATE BILL #99  
TESTIMONY

CHAIRMAN AND MEMBERS OF THE COMMITTEE

MY NAME IS RICHARD A. NISBET, DIRECTOR OF PUBLIC WORKS, REPRESENTING THE CITY OF HELENA.

SENATE BILL #99 ATTEMPTS TO MAKE LOCAL GOVERNMENTS USE PRIVATE ENTERPRISE TO OPERATE AND MANAGE SOLID WASTE SYSTEMS. THE ORIGINAL BILL HAS BEEN MODIFIED BY NUMEROUS AMENDMENTS. HOWEVER, IN THE CURRENT STATEMENT OF INTENT, AND PARAGRAPH TWO, THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES WILL STILL DEVELOP STANDARDS FOR EVALUATING ALTERNATIVE PROPOSALS FOR SOLID WASTE MANAGEMENT SYSTEMS. THE REMAINDER OF THE BILL BASICALLY REQUIRES LOCAL GOVERNMENTS TO SOLICIT PROPOSALS ON PRIVATE VS PUBLIC MANAGEMENT OF THEIR SOLID WASTE SYSTEMS. IT REQUIRES THE STATE TO IDENTIFY PROCEDURES TO BE FOLLOWED IN SOLICITING INPUT INCLUDING RULES, REQUIRING PUBLIC HEARINGS AND NOTICE OF HEARINGS. STATE LAW CURRENTLY HAS ESTABLISHED THE GUIDELINES FOR PUBLIC HEARINGS. HOWEVER, IT DOES NOT REQUIRE PUBLIC HEARINGS ON EVERY DECISION THAT A LOCAL GOVERNMENT SHALL MAKE.

THE CITY OF HELENA AND LEWIS AND CLARK COUNTY JOINTLY WENT THROUGH A EXTENSIVE PUBLIC REVIEW PROCESS FOR A PROPOSED SOLID WASTE MANAGEMENT SYSTEM BEFORE MAKING THEIR FINAL DECISION. WE WEREN'T REQUIRED TO FOLLOW THIS PROCESS, BUT THE LOCAL ELECTED OFFICIALS FELT IT WAS IN THE BEST INTERESTS OF THE PUBLIC TO LOOK AT PRIVATE SECTOR PROPOSALS. WE COMPARED PRIVATE PROPOSALS TO THE COSTS OF DOING IT OURSELVES. NEITHER

2X. 9  
3-19-91  
SB 99

SENATE BILL #99  
PAGE 2

THE CITY OR THE COUNTY IS OPPOSED TO PRIVATIZATION OF PUBLIC SERVICES WHEN THEY ARE IN THE BEST INTERESTS OF ALL PARTIES. THE CITY OF HELENA DEFINITELY WANTS LOCAL GOVERNMENTS TO HAVE THE RIGHT TO DECIDE ON PRIVATE VS PUBLIC OPERATIONS. LOCAL OFFICIALS ARE THE ONES WHO MUST RESPOND DIRECTLY TO THEIR ELECTED BODIES AND MUST ANSWER FOR THEIR DECISIONS. THE CITY DOES NOT FEEL THE STATE OF MONTANA SHOULD DICTATE HOW A LOCAL GOVERNMENT MAKES ITS FINAL DECISION. THE CITY COMMISSIONERS ARE ELECTED BY THE PEOPLE AND ARE RESPONSIBLE TO THE PEOPLE, JUST AS YOU ARE TO STATEWIDE CONTINGENTS.

THE CITY OF HELENA REQUESTS THAT YOU KILL SENATE BILL #99 AND ALLOW LOCAL GOVERNMENTS TO DO THEIR JOB IN THIS AREA AS THEY ARE ELECTED TO DO IN ALL OTHER AREAS.

SB99/PWC

DATE 3-19-91  
SB 189

## Changes to Senate Bill No. 189



Page 6, Line 23: Add a subparagraph which states: "a general description of the availability of privately owned solid waste management systems planned for or operating within the proposed district".

Page 6, Line 25: Delete the word "and".

Page 7, Line 3: Add the word "and" followed by a new subparagraph (g) which states: "(g) Provide for a mechanism for those who wish to have solid waste management service supplied to them by a private operator to be excluded from the proposed district and from assessments for district fees."

Page 7, Line 6: Change "15 days" to "90 days".

Page 7, Line 20: Add the words "and shall solicit and consider bids and proposals for services from privately owned solid waste management systems".

Page 8, Line 1: After the word "upon", add the following language: "the failure of a private provider of solid waste management services to submit bids to the commissioners and . . ."

Page 8, Line 4: Change "15" days to "90" days.

Page 8, Line 7: Delete the words "be insufficient; or" and replace with the words "have no factual or legal basis".

Page 8, Line 8: Delete in its entirety subparagraph (c).

Page 10, Line 3: Substitute the following language for the present subparagraph (a): (a) the cost of contracts with privately owned providers of solid waste management systems that will provide service to the district" and then re-number present subparagraphs (a) and (b) accordingly.

3-19-91  
SB 189

Page 10, Line 9: Insert the following language after the word "unit": "to which service is being provided . . ."

Page 10, Line 18: Following the word "park" the following should be added: "for which service is being provided".

Page 12, Line 3: Following the conclusion of subparagraph (5), a new paragraph (6) should be added which reads: "(6) The board shall make provision for the withdrawal of properties from the district whose owners notify the board of their intention to contract with a private provider of solid waste services, not under contract with the district, and to discontinue assessment of withdrawn properties".

Page 12, Line 16: Add the following language after the word "system": "provided that the commissioners have established a fund to cover the costs of federal and state landfill closure requirements for municipal or county-owned landfills within the county and have also established a fund to cover the costs of abatement of violations of federal and state environmental laws at municipal and county-owned solid waste management systems".

Page 16, Line 13: Following subparagraph (d), a new subparagraph should be added which reads: "Provided that the commissioners have established a fund to cover the costs of federal and state landfill closure requirements for municipal or district-owned landfills within the district and have also established a fund to cover the costs of abatement of violations of federal and state environmental laws at municipal and district-owned solid waste management systems".

Page 17, Line 23: Delete New Section 25 in its entirety and replace with the following: "Section 25. Boards shall not operate any solid waste management system at a deficiency.

(1) County or municipal general fund money shall not be used to make up any deficiency in the budget or costs of operating a solid waste management system.

(2) Special tax levies shall not be used to prevent or ameliorate financial deficiencies in the construction or operation of solid waste management systems."

Page 18, Line 6: Replace the present Section 26 with the following:  
"Section 26. Municipalities, counties and districts shall not have the authority to charge any fees or assess any properties for solid waste services not actually rendered or provided to the owners of properties within the county, district or municipality."

Page 19, Line 4: Add the following language at the end of the paragraph: "; provided that this exemption does not give a joint district an unfair competitive financial advantage over a private supplier of solid waste management services."

SB 268 Comments by Rick Meis, Docean  
"An Act to Increase the Use of Recycled Goods by State  
Agencies; to Provide a Voluntary State Agency Purchase Preference  
for Goods Manufactured from Recycled Materials..."

I support the intent of SB 268.

### Sec 1 Definitions.

(3) "Recycled paper" is far too loose and may well promote purchase of paper products ~~not~~ labelled recycled that truly address the waste stream. I would urge adoption of definitions as proposed for amendment to HR 855.

This bill gives rather limited direction to the Dept. of Admin. to define & redefine terms.

### Sec 2 Preference to Recycled Materials.

(2) Allowing for a blanket 15% preference for purchase of recycled materials over nonrecycled. I would suggest a price preference based on quality, as some papers labelled recycled really do not deserve a price preference. I would urge a graduated preference on content and type of recycled material.

### Sec 3 State Agency Purchasing.

I like this section. Again, I believe that up to date and clear definitions, and proper preference guidelines, I think this is very workable.

(over)

## Section 4,5, Rules for Recycling, and Guidelines & Procedures

Within what I have stated previously, I am not too opposed to these section, Although I do have a few reservations.

## Section 6. Department to make Rules.

(2) One point we must keep in mind is that when the bill (P6, lines 15,16) notes that in making definitions the department should ~~keep in mind~~ ~~not~~ use generally accepted industry standards. Many of the large paper companies do have vested interest in not having recycled definitions that address the waste stream. We need to make sure the department and especially this committee make clear what the intentions are: buying paper made from the paper in the big blue bins throughout the capitol. Not buying paper that makes corporations more ~~\$\$~~ simply by measuring and labelling mill wastes, which have historically been reused.

Closing. In general I support SB 268. I believe stronger language is necessary, however, to connect that which we are using to that which we are recycling. Remember. If you are not using the recycled products, you are not really recycling - no matter how many blue bins are around the capitol complex. In fact I would urge bringing HB 955 off the table.

Thank you

ALL THE WATER WAS CLEAN AND WE LIVED HAPPILY EVER AFTER  
or  
THE REALITIES AND MYTHS OF RECYCLED PAPER

by Rick Meis  
Treecycle Recycled Paper  
Box 5086, Bozeman, MT 59717

It is not easy to tell the difference between all the recycled paper products out there.

"Difference," you ask, "what do you mean difference; isn't recycled paper recycled paper?" No.

"What the \*^#@?!", you ask. That's what I said.

Recycled paper is like many things today. When most of us think of recycled paper, we think of all that waste paper we save to take to the recycling center. We assume that it is being remanufactured into a variety of recycled paper products. This, we assume, will help curb the waste stream/landfill problem and is beneficial to our environment.

Sorry. This is not a fairytale; things often don't happen the way we think they should.

When many paper companies think of "recycled paper," they may be thinking of how to do something cheapest and easiest, sell it to the public and make money doing it. Sound like everything else? It is!

About 40% of what goes into our dumps is discarded paper products. The media has had stories on the woes of recycling waste paper. One answer is demand. If we want to recycle our wastes, then we must start using products made with those recycled materials -- post-consumer wastes. We discarded 25 million tons of waste paper in 1990, of which over 85% was classified as post-consumer waste. The American Paper Institute, Environmental Protection Agency, and Institute of Scrap Recycling all point to a lack of demand for recycled paper products as the limiting factor in recycling more paper.

FEDERAL GOVERNMENT INVOLVEMENT IS NOT NECESSARILY PRODUCTIVE

Recycled paper is an often misused term stemming from the U.S. Environmental Protection Agency's definition drafted in 1988. People concerned with recycled paper were hoping that the new EPA guidelines for minimum recycled content for recycled paper purchased by federal agencies would provide a consistent, national definition.

The guidelines turned out to be so loosely worded that many of the recycled papers on the market are essentially fakes -- made with

materials that never left the mill or the converter (where paper is cut into sheets or envelopes). These types of waste have historically been reused in papermaking. So nothing new is happening except a label. (It is good this material is being reused, but economics play a greater role in this than a concern for recycling and the environment.)

As defined by the EPA, in 1988, recycled paper can include paper made with at least a minimum (50%) fiber content of "wastepaper": mill waste, converter clippings, printer's scrap, and/or post-consumer waste (pcw). The regulations do not require any use of post-consumer waste or post-mill waste for high grade printing and writing paper. (To meet EPA guidelines, newsprint, packaging materials, and tissue products do require some pcw.)

In 1990, the EPA expanded the guidelines to include wood chips (which are the byproduct of another industry, e.g. a lumber mill). A worst case scenario would be a paper labeled "recycled" that meets the EPA guidelines and is made of 50% wood chips and 50% pulpwood. It would have none of the characteristics or advantages of paper made with recycled paper fiber.

When you see the label "recycled paper," by the EPA definition it may include material other than the waste paper we recycle. Most people think recycled paper is made with waste they have recycled, not just a product made with measured mill wastes labelled "recycled." Much of the recycled paper on the market is made of mill waste and converter clippings. This type of recycled paper does not truly address the issues of recycling -- but simply meets a bureaucratic definition.

When mill wastes comprise all the recycled content in paper recycling is not truly being done. Post-consumer wastes are not being collected and recycled. EPA's guidelines are such that recycled paper could meet these guidelines and not reduce the solid waste problem by one truckload, let alone reduce environmental degradation associated with making paper.

#### KNOW WHAT YOU ARE GETTING

In order to make you aware of the minimum content of each type of recovered material in each paper, Conservatree Paper Company has developed a ranking system for recycled paper. By this system you as the consumer can know exactly what you are getting and that the paper you use meets your goals.

This four-tiered ranking system starts with standards similar to those of several states. (The EPA guidelines are not addressed for the reasons given above.) The highest ranking, Cl+, exceeds all current standards, showing both the public and industry that quality, high-content recycled paper not only can be made, but is being done so today.

(see graphic on enclosed "Recycled Paper Agenda")

Most of the discussion above applies basically to printing and writing paper. Tissue products: toilet paper, napkins, facial tissue and paper towels, have different requirements set by the EPA, which are better than for those stated above for printing and writing (fine) papers.

However, unlike the fine paper, when a tissue product in the store is labelled recycled, it does not mean it even meets the EPA guidelines. The variance in recycled content in tissue products labelled recycled is normally much greater than in fine paper.

At Treecycle, for instance, we carry Envision, which always meets or exceeds the EPA guidelines for tissue products (few of the tissue products on the market meet these guidelines). In fact, 2 of the toilet papers are 100% post-consumer waste and have not been re-bleached in production. You can't get any better than this!

It can be difficult to get information on the various tissue products on the market. Several companies have failed or refuse to provide this author with the information requested on the type and content of recycled material or the bleaching process. The Greenpeace Pulp and Paper Campaign has encountered the same problem from one major producer. One product (which has appeared on the shelves of Montana stores) was mislabelled as to the bleaching done. I hope it has been corrected.

#### RECYCLING, HOWEVER, WILL NOT SOLVE ALL THE PROBLEMS

(A quick pitch . . . we must try reduce our consumption to really have a major impact on environmental degradation!)

Papermaking is a dirty business. Paper mills are among the most polluting of industries. The paper industry is the greatest energy consumer in the country. The U.S. paper industry's reliance on chlorine-intensive bleaching places this industry as the largest water polluter in the world.

Recycled paper, done right, can reduce energy consumption, reduce both air and water pollution, save forest resources, reduce water consumption, and save landfill space. And save tax dollars!

It should be noted that even if we see an increase in the use of recycled paper, paper consumption in total is increasing so rapidly that we will probably not see a reduction in the cutting of trees for pulpwood.

#### DIOXINS . . . YEECH!

Paper is not all paper. It can be 20 to 40% fillers, coatings, and chemicals. The manufacture of paper requires a great deal of water, energy, and chemistry. Many of the chemicals associated with

the manufacture of paper are toxic or result in toxic wastes of varying degrees.

Although the recycling of waste paper requires less of all these, the fact is that the chemicals used and subsequent waste produced varies greatly. One advantage of recycled paper is that it CAN be made easily with less toxic processes, and thus result in less environmentally unsound wastes from the manufacturing process. But not all recycled paper products are indeed made using more benign processes.

The biggest culprit is the bleaching process. There are 3 kinds of bleaching: chlorine gas, sodium hypochlorite, and hydrogen peroxide. It is also possible to do no bleaching.

The toxic byproducts we hear about the most are dioxins. Dioxins are one type of organochloride, which result from the combination of chlorine and other substances. Pulp and paper mills using chlorine for bleaching produce up to 1,000 of these chlorinated organic compounds. So far, only about 300 of these have been identified, including dioxins, furans, and PCBs.

Dioxin is considered to be the most potent chemical toxin known, and studies have shown it to be highly carcinogenic. (Keep in mind that DDT is an organochloride!) Toxic emissions from paper mills are concentrated in fish, and then are further concentrated when those fish are eaten.

To give a perspective, the pesticide Endrin, a recognized carcinogen, created quite a stir in Montana when found in waterfowl and upland game birds. It is no longer registered for use in the state due to its persistence. The most toxic of dioxins 10,000 times more toxic than Endrin.

Due to the nature of the pulp source for virgin paper in this country containing large quantities of lignins, powerful bleaching is necessary to make the paper white. However, in countries like Sweden and Germany chlorine-free papers are being made today. In fact, Sweden has a law requiring the elimination of organochloride emissions by paper mills by the year 2000.

Recycled paper is made from paper which probably was bleached the first time around, as well as being as much as half virgin fiber anyway, so it is tough to truly say a paper is unbleached. The better term is unREbleached for recycled paper.

If a recycled paper is made from 100% recycled fibers, it does not require nearly as much bleaching, let alone as strong of bleaching. This could be easily done with an oxygen-based bleaching process -- hydrogen peroxide. A few paper mills in this country are beginning to use this process, mostly for recycled tissue products, but very few fine papers are produced using this process.

Many of the recycled paper mills in this country are using a chlorine derivative, sodium hypochlorite, which does not promote the

development of organochlorides as readily as elemental chlorine (gas). While it is still a factor, a hypochlorite bleached product is a better choice than one bleached with chlorine gas.

Therefore it must be kept in mind that "recycledness" and "bleachedness" are at present two distinct issues and ideals. The goal, of course, would be to meld these two into readily available unrebleached, recycled paper products. At present, few paper products meet both. It is through informed consumers that we will see the changes to have both. And hopefully we can also see chlorine-free virgin papers on the market without having to bring them half way around the globe. Ask your paper supplier to find you papers that meet all your goals.

#### IT IS NOT SO DIFFICULT AS ALL THAT, IS IT?

There are many other myths and facts about recycled paper I have not dealt with here. Yes, recycled paper can be recycled again. Often you cannot tell the difference between a recycled paper and one that is not, whether it is recycled or not is not what determines a paper's quality.

The planet is showing signs of our excessive demands on it: air and water deterioration, overflowing landfills, disappearing forests. We can only resolve these problems by each and every one of us looking at the facts and making responsible decisions.

Recycling on a large scale is new. As the industry catches up with the recycling wave, we will see changes -- but only if the demand is consistent. This must come from the consumer.

Reduction of wasteful consumption is a primary need. Recycling and buying recycled are positive options. Remember: reduce, reuse, and recycle!

Recycled paper is a necessary step in resolving the very real waste stream problem with which we all are faced. Recycling is a loop. If you're not using recycled products, you are not really recycling. But remember NOT ALL RECYCLED PAPER IS CREATED EQUAL!

(for permission to reprint all or part of this article  
please contact Treecycle Recycled Paper, Box 5086,  
Bozeman, MT 59717, 406-586-5287.)



CX. 12  
3-19-91  
SB 268

# Recycled Paper Agenda for the '90s

Legislation to Close the Loop for Recycled Printing and Writing Paper

Conservatree unveiled "Agenda for the '90s" — a program designed to address the nation's solid waste crisis by stimulating paper recycling — at a Washington, D.C. press conference on December 6, 1990.

Conservatree's plan includes federal legislation to place a waste disposal fee on mills that produce printing and writing (p/w) paper directly from trees while offering rebates for recycled paper manufacturers based on the percentage of post-consumer material they use. The program would be revenue-neutral with the "surcharge" on virgin paper paying for the recycling incentives.

The program will remove economic disincentives which have stopped the private sector from purchasing meaningful quantities of recycled paper and is the most efficient way to encourage paper companies to install de-inking equipment and use post-consumer waste.

Conservatree's proposal calls for the federal government to enact and all public and private paper buyers to use:

1. A national standard for recycled papers, using three definitions:

a) **Post-Mill Material (PM)** —

Paper wastes generated during production which cannot be returned to the same production process, nor used by another company to make a product similar to the original product. Includes all wastes generated during the intermediate steps in producing an end-product by succeeding companies. Does not include forest residues or mill broke.

b) **De-Inking Material (DI)** —

Printed or coated paper, the fiber of which must undergo a process in which most of the ink, filler and other extraneous material is removed.

D	Post-Mill Material		
E			
F			
I			
N			
I			
T			
I			
O			
N			
S			
Type of Waste:	Pulp Subs	Pre-Consumer De-Inking	Post-Consumer
Quantity Generated 1990 (Tons):	1.1 Million	2.1 Million	21.8 Million
Source:	Converters	Businesses, Homes	

c) **Post-Consumer Material (PC)** — Only those products generated by a consumer which have served their intended end-uses and have been separated or diverted from solid waste for the purpose of collection, recycling and disposition. Wastes generated during production of an end-product are excluded.

2. A ranking system for recycled printing and writing paper with four levels:  
*(all percentages are for total weight of paper)*

**C<sub>1+</sub>** — 60% Post-Mill material\*

including 15% Post-Consumer (increases to 25% in 1992)

**C<sub>1</sub>** — 50% Post-Mill material\*

including 10% Post-Consumer (increases to 15% in 1992)

**C<sub>2</sub>** — 40% De-Inked Material

**C<sub>3</sub>** — 50% Post-Mill Material\*

	Recycled Fiber:	PC	DI	PM
R	<b>C<sub>1+</sub></b>	15%	and	60%
A	<b>C<sub>1</sub></b>	10%	and	50%
N	<b>C<sub>2</sub></b>		40%	
K	<b>C<sub>3</sub></b>			50%

\*Low fiber content papers can meet these requirements with alternative standards. Contact Conservatree for details.

3. A recycled paper procurement policy with **C<sub>3</sub>** as the minimum content standard for all paper purchases, and allowing for the following price preferences:

**C<sub>1+</sub>** — 15%

**C<sub>1</sub>** — 10%

**C<sub>2</sub>** — 5%

4. An Advance Disposal Fee paid by manufacturers on the sale of virgin paper of 1% beginning in 1992, rising to 2% in 1996 and 3% in 2000.

5. A Waste Reduction Credit to manufacturers on the sale of recycled papers, beginning in 1992, as follows:

**C<sub>1+</sub>** — 9%

**C<sub>1</sub>** — 6%

**C<sub>2</sub>** — 3%

**C<sub>3</sub>** — 0%

6. The program is designed to be revenue neutral. Should there be any excess revenues, they should be used to:

- Promote the procurement of recycled paper through the media;
- Support research into improvements in recycling processes and new recycled paper products;
- Support research into the most effective programs to remove contaminants from the wastepaper supply.

These six steps will result in a dramatic shift in market demand for recycled printing and writing paper; from less than 1% today to 40% by the end of the decade. The environmental benefits from making a commitment to a recycling future are enormous, with the following results over the nine year period of the program:

- ♦ A savings of 462 million trees — enough trees to cover the entire state of Massachusetts.
- ♦ A savings of 111 billion KWH of energy — enough to meet the entire annual residential energy needs of California residents.
- ♦ A taxpayer savings of over \$1 billion dollars in waste disposal costs.
- ♦ A reduction in air pollution of 16 billion pounds.
- ♦ A reduction in the amount of solid waste of 81 billion cubic yards — enough to fill a caravan of trucks stretching halfway around the globe.

Legislation incorporating this program is scheduled to be introduced in Congress in early 1991. We urge you to write your Congressperson and Senators (include a copy of the agenda) asking them to support this program. Please send a copy of your letter to David Assmann at Conservatree.

Items 2 and 3 are an update of information provided on pages 4 and 5 of Get Real! — Conservatree's Consumer Guide to Real Recycled Paper.

EXHIBIT 13  
DATE 3-19-91  
HB 731

Amendments to House Bill No. 731  
First Reading Copy

Requested by Paul Sihler  
For the Committee on Natural Resources

Prepared by Paul Sihler  
March 19, 1991

1. Title, lines 5, 7, and 12

Strike: "RIPARIAN"

Insert: "STREAMSIDE"

2. Page 1, line 16.

Page 3, lines 13 and 19.

Page 4, lines 11, 15, and 24.

Page 5, lines 1, 4, and 8.

Page 7, line 2.

Page 9, lines 9 and 20.

Page 10, line 21.

Page 12, line 18.

Strike: "riparian"

Insert: "streamsde"

3. Page 1, line 21.

Strike: "protection"

Insert: "management"

4. Page 1, line 24 through page 3, line 11.

Strike: "It" on page 1, line 24 through "wildlife." on page 3,  
line 11

Insert:

"It is the intent of the legislature that the department of state lands adopt rules to implement the management standards provided for in [section 3] as enforceable standards for streamside management zones. These standards are to be coordinated with the objectives and guidelines contained in the existing system of voluntary best management practices, which will still guide forest practices outside of the streamside management zone. The department shall adopt rules governing the harvest of timber in streamside management zones to ensure the retention of merchantable and submerchantable timber necessary to maintain the integrity of the streamside management zone. The department shall also adopt rules under which owners and operators may receive approval for alternative practices under the criteria and procedures provided in [section 3(2)].

It is the intent of the legislature that the department develop voluntary, nonenforceable guidelines concerning the selection and retention of trees and vegetation, including snags, for wildlife habitat within the streamside management zone.

It is the intent of the legislature that the department establish an interdisciplinary technical committee to assist the department in adopting rules, developing voluntary guidelines for the management of wildlife habitat, and monitoring the

implementation of this bill. The members of the committee should have technical knowledge or expertise in water quality, wildlife management, or forest management and include representatives from the U.S. forest service; U.S. bureau of land management; the Montana departments of health and environmental sciences and fish, wildlife, and parks; conservation districts; the Montana state university extension forestry program; the Montana forestland conservation experiment station; the forest products industry; and the conservation community.

To the extent practical, the department should conduct onsite consultations under [section 4] in conjunction with consultations or inspections conducted pursuant to Title 76, chapter 13, parts 1 and 4. It is also the intent of the legislature that whenever department personnel in the field notice a probable water quality or 310 permit violation that they notify the appropriate authority.

It is the intent of the legislature that the department, with the assistance of the technical committee, evaluate the implementation of this bill, develop recommendations to address problems, if any, that arise, and report its findings and recommendations to the environmental quality council."

5. Page 4, line 25.

Strike: "standards"

Insert: "guidelines"

Strike: "protection"

Insert: "management"

6. Page 6, lines 9 through 18.

Strike: subsection (7) in its entirety

Renumber: subsequent subsections

7. Page 6.

Following: line 22

Insert: "(8) "Streamside management zone" or "zone" means the stream, lake, or other body of water and an adjacent area of varying width where management practices that might affect wildlife habitat or water quality, fish, or other aquatic resources need to be modified. The streamside management zone encompasses a strip at least 50 feet wide on each side of a stream, lake, or other body of water, measured from the ordinary high-water mark, and extends beyond the high-water mark to include wetlands and areas that provide additional protection in zones with steep slopes or erosive soils."

8. Page 7, line 1.

Strike: "Purposes and standards"

Insert: "Standards"

9. Page 7, line 3 through page 8, line 12.

Strike: "forest" on page 7, line 3 through "protected." on page 8, line 12

Insert: "the following practices are prohibited in a streamside management zone:

(a) broadcast burning;

(b) the operation of wheeled or tracked vehicles except on established roads;

(c) the forest practice of clearcutting;

(d) the construction of roads except when necessary to cross a stream or wetland;

(e) the handling, storage, application, or disposal of hazardous or toxic materials in a manner that pollutes streams, lakes, or wetlands or that may cause damage or injury to humans, land, animals, or plants.

(f) the side-casting of road material into a stream, wetland, or watercourse; and

(g) the deposit of slash in streams or other water bodies."

10. Page 9, lines 2 through 4.

Strike: "that" on line 2 through "retained" on line 4

Insert: "for the sole purpose of harvesting additional trees"

11. Page 10, line 9.

Strike: "(a)"

12. Page 10, lines 11 through 16.

Strike: "is" on line 11 through "both" on line 16

Insert: "shall be subject to a civil penalty not to exceed \$1,000"

13. Page 10, lines 16 and 17.

Strike: the second "of" on line 16 through "is" on line 17

Insert: "constitutes"

14. Page 10, lines 18 through 22.

Strike: subsection (b) in its entirety

15. Page 12, line 14.

Strike: "purposes and"

16. Page 12, line 20.

Strike: "and"

17. Page 12, lines 21 and 22.

Strike: "including" on line 21 through "7]" on line 22

Insert: "governing the alternative practices provided for in [section 3]; and

(4) regulating the harvest of timber in streamside management zones"

1 House BILL NO. 731DATE 3-19-91

HB 731

1 INTRODUCED BY Reagan Bob Brown John Murphy

2 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING MANAGEMENT

3 STANDARDS FOR THE CONDUCT OF FOREST PRACTICES IN RIPARIAN

4 MANAGEMENT ZONES; AUTHORIZING THE DEPARTMENT OF STATE LANDS

5 TO ADOPT AND ENFORCE RULES IMPLEMENTING THE RIPARIAN

6 MANAGEMENT STANDARDS; ALLOWING ALTERNATIVE FOREST PRACTICES

7 IN CERTAIN CIRCUMSTANCES; AUTHORIZING THE DEPARTMENT OF

8 STATE LANDS TO ISSUE ADMINISTRATIVE ORDERS FOR SITE

9 REHABILITATION; PROVIDING PENALTIES FOR NONCOMPLIANCE WITH

10 RIPARIAN MANAGEMENT STANDARDS; AND ESTABLISHING A FOREST

11 STEWARDSHIP SPECIAL REVENUE ACCOUNT."

12 STATEMENT OF INTENT

13 It is the intent of the legislature that the ~~Streamside~~

14 management zone be an area of closely managed activity, but

15 not a zone where timber harvest is excluded. Timber harvest

16 activities must be managed within the zone to achieve

17 objectives relating to water quality, beneficial water uses,

18 protection of wildlife habitat, and the long-term stability

19 of the stream system, in addition to timber harvest

20 objectives. INSERT AMENDMENT # 4 TEXT

21 It is the intent of the legislature that the department

22 of state lands adopt rules providing enforceable management

1 standards for forest practices in riparian management zones.

2 The department shall:

3 (1) consult with forestry officials from federal,

4 state, and private agencies and organizations involved in

5 forest watershed issues and wildlife management;

6 (2) review the riparian management regulations of other

7 states;

8 (3) consider the experiences and recommendations of

9 persons who have developed, administered, and been subject

10 to these regulations; and

11 (4) consider recent research findings on forest

12 management in riparian areas.

13 Based on this information, the department shall develop

14 specific rules to implement the purposes and management

15 standards provided in section 3) for riparian management

16 zones, including rules on equipment use; road drainage; log

17 skidding and yarding; the number, size, and type of trees to

18 be retained along the zone; tree canopy cover; snag

19 retention; site management; site preparation; and other

20 related practices. Owners or operators may receive approval

21 for alternative practices under the criteria and procedures

22 provided in (section 3(2)).

23 The department shall also develop by rule a method for

24 site-specific determination of the width of each ~~Streamside~~

25 management zone based on topographic, hydrologic,

1 vegetative, and other site characteristics. The zone may not  
 2 be narrower than 50 feet on either side of the streambank or  
 3 lakeshore and must increase in width in areas of steep  
 4 slope, erosive soils, or wet soils. A change in slope  
 5 steepness between a steep-sided stream corridor and a more  
 6 level upland area can often be an appropriate boundary for  
 7 the ~~Streamside~~ riparian management zone.

8 It is the intent of the legislature that the department  
 9 develop written guidelines for methods through which timber  
 10 harvest may be conducted in ~~Streamside~~ riparian management zones to  
 11 benefit or to reduce adverse effects on wildlife.

12 Finally, the legislature recognizes that appropriate  
 13 limitations on activities in ~~Streamside~~ riparian zones, which comprise  
 14 only a very small percentage of Montana forests, can achieve  
 15 substantial watershed and wildlife benefits.

16

17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 **NEW SECTION. Section 1. Findings and purpose.** (1) The  
 19 legislature finds that the ~~Streamside~~ riparian management zone:

20 (a) acts as an effective sediment filter to maintain  
 21 water quality;

22 (b) provides shade to regulate stream temperature;

23 (c) supports diverse and productive aquatic and  
 24 terrestrial riparian habitats;

25 (d) protects the stream channel and banks;

1 (e) provides large, woody debris that is eventually  
 2 recruited into a stream to maintain riffles, pools, and  
 3 other elements of channel structure; and  
 4 (f) promotes floodplain stability.

5 (2) The legislature further finds that maintaining the  
 6 integrity of forest streams is crucial to the quality and  
 7 quantity of water available to Montanans for domestic,  
 8 agricultural, industrial, and recreational use.

9 (3) The legislature further finds that forest streams  
 10 are highly susceptible to impacts from land development and  
 11 that in many cases forest practices in ~~Streamside~~ riparian zones in  
 12 Montana are causing excessive and unnecessary damage to the  
 13 banks, beds, and protective vegetation of forest streams.

14 (4) The legislature further finds that, through careful  
 15 management in the ~~Streamside~~ riparian zone, owners and operators can  
 16 achieve timber harvest goals without sacrificing water  
 17 quality or impairing the beneficial uses of the water.

18 (5) The purposes of [sections 1 through 7] are:

19 (a) to protect the legitimate public interest in the  
 20 quality and quantity of forest waters;

21 (b) to provide for standards, oversight,

22 rehabilitation, and penalties to ensure that forest  
 23 practices are conducted in a manner that conserves the  
 24 integrity of Montana's riparian zones;

25 (c) to provide ~~guidelines~~ for the protection of wildlife

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DATE 3-19-91

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habitat in ~~Streamside~~ riparian zones; and

(d) to allow operators necessary flexibility to use practices appropriate to site-specific conditions in the

~~Streamside~~  
Riparian management zone.

**NEW SECTION. Section 2. Definitions.** As used in

(sections 1 through 7), the following definitions apply:

(1) "Alternative practices" means forest practices:

(a) conducted in the ~~Streamside~~  
Riparian management zone that are

different from practices required by rules adopted under

[sections 1 through 7];

(b) that are designed for site-specific conditions

encountered during a timber sale; and

(c) that are subject to department approval under

[section 3].

(2) "Department" means the department of state lands

provided for in 2-15-3201.

(3) "Forest practices" means the harvesting of trees,

road construction or reconstruction associated with

harvesting and accessing trees, site preparation for

regeneration of a timber stand, reforestation, and

management of logging slash. The term does not include

activities related to the operation of a Christmas tree farm

or nursery that do not involve new road construction.

(4) "Operator" means a person responsible for

conducting forest practices. An operator may be the owner or

1 a person who, through contractual agreement with the owner,  
2 is obligated to or entitled to conduct forest practices or  
3 carry out a timber sale.

4 (5) "Owner" means an individual, firm, partnership,

5 corporation, or association of any nature that holds an

6 ownership interest in forest land or timber.

7 (6) "Person" means an individual, firm, partnership,

8 company, commercial entity, corporation, or association.

9 (8) ~~Streamside~~ "Riparian management zone" or "zone" means the

10 stream, lake, or other body of water and an adjacent area of

11 varying width where management practices that might affect

12 wildlife or water quality, fish, or other aquatic resources

13 need to be modified. The ~~Streamside~~ management zone

14 encompasses a strip at least 50 feet wide on each side of a

15 stream, lake, or other body of water, measured from the

16 ordinary high-water mark, and extends beyond the high-water

17 mark to include wetlands and areas that provide additional

18 protection in zones with steep slopes or erosive soils.

19 (7) ~~Stream~~ "Stream" means a natural watercourse of perceptible

20 extent that has a generally sandy or rocky bottom and

21 definite banks and that confines and conducts continuously

22 or intermittently flowing water.

23 (9) "Timber - sale" means a series of forest practices

24 designed to access, harvest, and regenerate trees on a

25 defined land area.

Amendment #9 Text

Standards

Inset

NEW SECTION. Section 3. Purposes and standards for forest practices in Silvopar management zones -- alternative practices. (1) Except as provided in subsection (2), forest practices in a riparian management zone must comply with the following purposes and standards and with rules adopted under sections 2 through 7 to implement these purposes and standards:

- (a) to prevent soil erosion and stream sedimentation;
- (b) roads and landing may not be constructed in the zone, except for roads necessary and appropriate for approaches to stream crossings;
- (c) tractors or other heavy, motorized vehicles may not be used for harvesting or removing timber or for site preparation in the zone;
- (d) water draining from road surfaces and road cuts must be routed through an undisturbed portion of the zone, not directly into a stream channel;
- (e) cables must be used to skid logs out of the zone and logs must be fully suspended if taken across a streamcourse; and
- (f) site preparation must be conducted with minimal soil disturbance;
- (g) to provide shade to the stream and to maintain soil stability, nonmerchantable vegetation must be retained; and
- (h) to maintain stream channel stability and aquatic

habitat, trees with roots in the streambank may not be harvested;

- (d) to provide long-term recruitment of large, woody debris into the stream channel necessary to retain stream structure, a residual timber-stand, including tree species and age composition generally characteristic of the site prior to harvest, must be retained;
- (e) to protect water quality, stream bottom structure, and bank integrity and to provide unobstructed fish passage, slash must be kept out of the stream-channel; and
- (f) to maintain populations of wildlife that use riparian-sensor-habitat must be protected.

(2) (a) An owner or operator may request approval by the department to use alternative practices. The department shall work cooperatively with the owner or operator to develop the best site-specific practices to meet timber and watershed objectives. The department may review onsite conditions prior to taking final action on a request.

(b) The department shall approve the request if the alternative practices provide equivalent or improved watershed protection when compared to the management practices provided by rules adopted under sections 1 through 7.

(c) The department may approve the request if the alternative practices provide nearly equivalent watershed

protection. However, this subsection (c) may not be used as grounds for approval of a proposed alternative practice that ~~for the sole purpose of harvesting additional timber~~ retains trees.

(d) Departmental approval of any alternative practices must be provided in writing and state the specific alternative practices authorized.

(3) The department ~~shall~~ publish and distribute the rules implementing the ~~harvest~~ management standards.

NEW SECTION. Section 4. Inspection -- onsite consultation. (1) The department may inspect forest practices on any federal, state, or private land in this state to assess compliance with the provisions of [sections 1 through 7] and rules adopted pursuant to [sections 1 through 15] through 7].

(2) The department may conduct an onsite consultation with an owner or operator to review harvest plans and watershed conditions. During the onsite consultation, the department may review and, if appropriate, approve the proposed use of alternative ~~harvest~~ management practices, as provided in [section 3].

NEW SECTION. Section 5. Responsibility for compliance

-- penalties -- administrative orders. (1) Except as provided in subsection (1)(b), it is the responsibility of the owner to ensure compliance with the provisions of

1 caused damage to watershed or wildlife resources, the  
2 department may serve an order requiring the person  
3 responsible for the conduct of forest practices to undertake  
4 necessary site rehabilitation within a reasonable period of  
5 time stated in the order. The order must specify the nature  
6 of the violation and the damage or unsatisfactory condition  
7 resulting from the violation.

8 (b) The order becomes final unless, within 30 days  
9 after the notice is served, the person named requests in  
10 writing a hearing before the department. On receipt of the  
11 request, the department shall schedule a hearing. Service by  
12 mail is complete on the date of mailing.

13 (c) If, after a hearing, the department finds that a  
14 violation has occurred and the watershed or wildlife habitat  
15 damage warrants site rehabilitation, it shall affirm or  
16 modify the order previously issued. If the department finds  
17 that a violation has not occurred or that site  
18 rehabilitation is not warranted, it shall rescind the order.

19 (d) The department may include in an order a provision  
20 that the owner or operator immediately cease causing further  
21 damage and take immediate action to alleviate the damage or  
22 to prevent future damage. The department may institute an  
23 action for injunctive relief under Title 27, chapter 19, if  
24 the recipient of the order does not comply with it.

25 (4) Subsection (3) does not prevent the department from

1 seeking voluntary compliance and site rehabilitation through  
2 warning, conference, or any other appropriate means.

3 NEW SECTION. Section 6. Forest stewardship special  
4 revenue account. (1) There is a forest stewardship special  
5 revenue account.

6 (2) All fines and penalties levied under [section 5]  
7 must be deposited in the forest stewardship special revenue  
8 account.

9 (3) The department shall spend funds deposited in the  
10 account on activities and programs that promote the  
11 stewardship of forest resources.

12 NEW SECTION. Section 7. Rulemaking. The department

13 shall adopt rules:

14 (1) Implementing each of the purposes and management  
15 standards provided in [section 3];

16 (2) Providing specific direction necessary for owners  
17 and operators to understand and comply with the management  
18 standards, including additional definition of the ~~Special~~  
19 management zone and the forest practices permissible within  
20 the zone; and

21 (3) ~~including any other specific provisions necessary~~  
22 to achieve the purposes of [sections 1 through 3].

23 **INSECT AMENDMENT # 17 TEXT**  
24  
25 -End-

EXHIBIT 15  
DATE 3-17-91  
~~SB~~ 266

**Amendments to Senate Bill No. 266  
Third Reading Copy**

**Requested by Rep. Raney  
For the Committee on Natural Resources**

**Prepared by Gail Kuntz  
March 18, 1991**

**1. Title, lines 16 and 17.**

**Following: "MCA;" on line 16**

**Strike: "REPEALING SECTION 85-2-317, MCA;"**

**2. Page 29, lines 11 and 12.**

**Strike: section 11 in its entirety**

**Renumber: subsequent sections**

HOUSE OF REPRESENTATIVES  
VISITOR REGISTER

Natural Resources

COMMITTEE

BILL NO. SB 209

DATE 3/19/91

SPONSOR(S) Sen. Yellowtail - Solid waste mgmt fees

PLEASE PRINT

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
SELDEN, S. FRIESE	City of Cpl. Bank		X
Tom Hammerbacker	City of Conrad		X
Richard Nisbet	City of Helena		X
Gordon Morris	MTAG	Amend.	
Pete Frazier	CITY-CO. HEALTH DEPT GT FALLS	X	
FRANK CRONLEY	MT- CO. CONCRETE CONTRACTORS ASSN	X	
R. KATEEE CONNELL	THREE RIVERS DISPOSAL	X	
Bruce McANDLESS	CITY OF BILLINGS	✓	
Tony Grover	DHES	X	
Janet Ellis	MT Audubon	Amend.	
Lauf Blehm	NPRC	Amend.	
Chris Kaufmann	MEIC	X	Amend.
Don CHANCE	BENKEHEAD Co.		✓

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**HOUSE OF REPRESENTATIVES  
VISITOR REGISTER**

## Natural Resources

## COMMITTEE

BILL NO. SB 346

DATE 3/19/91

**SPONSOR(S)** Sen. Harp - fee for out-of-state waste  
disposal

## PLEASE PRINT

## **PLEASE PRINT**

## **PLEASE PRINT**

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Linda Lee	Montana Audubon	X	
Chris Kaufman	MEIC	X	
Katy Buhm	NPRC	X	
Neva Hassanein	NPRC	X	

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HOUSE OF REPRESENTATIVES  
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Natural Resources

COMMITTEE

BILL NO. SB 99

DATE 3/19/91

SPONSOR(S) Sen. Harp - Private solid waste management

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Richard A. Nisbet	City of Helena		X
Gordon Morris	MACo	✓	
Pete Frazier	CITY - Co Health DEPT GT Falls		X
R. Walter Connell 125 W. MENDENHALL, Bozeman	THREE RIVERS DISPOSAL	✓	
FRANK C. CONNELLY	MT. SOL. WASTE CONTRACTORS ASSN		X
BRUCE McCANDLESS	CITY OF BILLINGS	✓	
Alec Hansen Jim Jansen	MT LEAGUE OF CITIES MEIC	✓ Administrator	✓

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HOUSE OF REPRESENTATIVES  
VISITOR REGISTER

Virtual Resources COMMITTEE BILL NO. SB 189  
DATE 3/19 SPONSOR(S) Sen Beck - Revise local govt solid waste  
management laws

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<u>Tom Hammabacker</u> SELDON S. FRISBIE	<u>City of Conrad</u> <u>CITY OF PUR BANK</u>	✓	
<u>Gordon Morris</u>	<u>MACO</u>	✓	
<u>Pete Frazier</u>	<u>CITY - CO. HEALTH DEPT</u> <u>AT Falls</u>	✓	
<u>R. Walter Conwell</u> 125 W. Menzenbach Bozeman MT 59715	<u>THREE RIVERS DISPOSAL</u>		✓
<u>Frank C. Crowley</u>	<u>MR. JOL. KINTZIE CO. T. ASSIST.</u>		✓
<u>Chris Kaufman</u>	<u>MEIC</u>	✓	

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**HOUSE OF REPRESENTATIVES  
VISITOR REGISTER**

## Natural Resources

## COMMITTEE

**BILL NO.** SB 400

DATE 3/19/91

**SPONSOR(S)** Sen. Van Valkenburg - Absolute liability should  
be the rule of the road

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**PLEASE PRINT**

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Jim Jensen	MERC	X	
Tucker Hill	Champion Int'l	X	

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HOUSE OF REPRESENTATIVES  
VISITOR REGISTER

Natural Resources

COMMITTEE

BILL NO. SB 268

DATE 3/19/91

SPONSOR(S) Sen. Sneed - Increase use of recycled products

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Harley Warner	Montana Assoc. of Churches	X	
Rick Meis	Treecycle Paper	X	
Linda Lee	Montana Audubon	X	
Bustin Page	MontPIRG	X	
Valerie Horton	MCWF	X	
Neva Hassanir	NPRC	X	

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